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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1884.

No. ~~1201~~. 785 464 176

A. P. MORE, JOHN A. HARRALSON, R. C. CARLTON, WILLIAM LINEBERGER, MAHLON THORN AND MARY THORN, APPELLANTS,

vs.

RUDOLPH STEINBACH AND HORACE W. CARPENTIER.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

FILED NOVEMBER 6, 1884.

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1 *Bill of Complaint.*

Circuit Court of the United States, 9th Circuit, District of California.
In Equity.

RUDOLPH STEINBACH and HORACE W. CARPENTIER
vs.
ALEXANDER P. MORE, JOHN A. HARALSON, R. C. CARLTON, WILLIAM Lineberger, Mahlon Thorne, and Mary Thorne, his wife; John Doe, Richard Roe, Hans Schmit, Ivan Schmittouski, Ogan Ta Schmitt, and John Smith.

To the judges of the circuit court of the United States for the district of California:

Rudolph Steinbach, a resident of San Francisco, an alien, a subject of the Empire of Germany, and Horace W. Carpentier, a citizen of the State of New York, and there resident, bring this their
2 bill against Alexander P. More, John A. Haralson, R. C. Carlton, William Lineberger, Mahlon Thorne and Mary Thorne, his wife; John Doe, Richard Roe, John Smith, Hans Schmit, Ivan Schmittouski, Ogan Ta Schmitti, all citizens of the State of California, and residents of the State of California, and residents in Ventura county, in said State, and thereupon your orators complain and say:

That the said plaintiffs are the owners in fee-simple absolute of all that certain tract of land in the said county of Ventura, known as tract No. one (1) of the lands of the ex-Mission of San Buenaventura, patented by the United States to Manuel A. Rodriguez de Poli, on the 24th day of August, A. D. 1874, and is bounded and described as follows: Commencing at post O No. 1, in mound of rocks in the east boundary line of the Rancho Santa Ana, being corner No. 1 of the official survey of the Rancho Ojai, about 46 chains north of the township line, between townships 3 and 4, N. range, 23 W. San
3 Bernardino meridian; thence running easterly along the Cuchillo de Azufre to a live oak tree on Mupu creek, marked O 14, being the easterly corner of the Ojai Rancho; thence southerly down the general course of Mupu creek S. 16½ E. 224 ch. 38 links to a sycamore tree marked S. P. 11, S. B. ex-M., being a corner of the Santa Paula y Saticoy Rancho, as patented; thence southerly and southwesterly along the boundary of said Rancho Santa Paula y Saticoy to its intersection with the boundary of the Rancho San Miguel; thence westerly to the northerly corner of said Rancho San Miguil; thence southerly along the west boundary thereof to the sea shore; thence westerly along the sea shore to the north of the San Buenaventura river, thence northerly up the middle of said river to the southerly boundary of the Rancho Cañada Larga y Verde; thence following
4 the southern boundary of said rancho southeasterly, northeasterly, and northerly to corner No. 11 of said Rancho Cañada Larga y Verde; thence leaving the line of said rancho and running N. 85° E. $309\frac{28}{100}$ chains to post in mound; thence N. 40° 15′ E. $133\frac{68}{100}$ chains to a live oak tree marked S. B. M. 23; thence north $39\frac{48}{100}$ chains to post in mound; thence west on a line which is due east from the southeast corner of the Rancho Santa Ana $210\frac{80}{100}$

chains to intersection with the southeastern boundary of the Rancho Cañada Larga y Verde; thence following the southeastern, eastern, and northern boundaries of said rancho to the northwest corner thereof, at the intersection of its northern boundary with the eastern boundary of the Rancho Santa Ana, marked by a post in a rock mound C. L. No. 2; thence westerly along the eastern boundary of the Rancho Santa Ana to the place of commencement; excepting therefrom the town of San Buenaventura, with the boundaries established by law; excepting also the piece of land sold to and now or lately occupied by G. G. Sewell, bounded and described as follows, to wit: Commencing at the northwest corner of lot No. 22 of subdivision of the Rancho Santa Paula y Saticoy, running thence N. 36° W. 80 chains to a post in stone mound; thence N. 54° E. to the northwest line of the final survey of said Rancho Santa Paula y Saticoy; thence along said line of final survey S. 14° 36′ W. to the northeast corner of said lot No. 22 and post S. P. 10, being a common corner of the Rancho Santa Paula y Saticoy, and of said tract No. one of the lands of the ex-Mission of San Buenaventura; thence along the north boundary of said lot, being also on the southeastern boundary of said tract No. 1 S. 64° W. $38\frac{75}{100}$ chains to the point of commencement.

5

Plaintiffs further show that the last six names are fictitious and plaintiffs intend thereby certain parties making claims to said property or some portions thereof, whose true names are unknown to the plaintiffs, and they pray that the true names of said defendants may, when discovered, be herein inserted in place and stead of such fictitious names.

6

That the said defendants claim an estate adverse to the said plaintiffs, and they bring this action for the purpose of determining such adverse claim.

That the said claims of the said defendants of a right or interest in the said premises adverse to the said plaintiffs are wholly unfounded and invalid in law or equity, and they aver that the said defendants have not, nor has either of them, any estate, right, title, or interest at law or in equity in or to the said above-described real estate or any part thereof.

That the said adverse claims of the said defendants depreciate the value of the plaintiffs' title and property, and prevent plaintiffs from using or selling the said property, and otherwise harrass and annoy them in the possession and ownership of their said lands.

7

Wherefore the said plaintiffs pray that the said defendants be required to particularly set forth the grounds and nature of their said claims and pretensions, and that this honorable court determine the said adverse claims of the said defendants and each of them. That it be finally adjudged and decreed that the said plaintiffs are the owners in fee of the said real estate, and entitled to possession thereof.

That the adverse claims of the said defendants, and each of them, of an estate or interest therein are unfounded in law or equity, fictitious, and wholly invalid, and that the plaintiffs have a writ of as-

sistance for the possession of the said premises against the said
8 defendants and each of them, if any of them should be found to be in possession of any portion of said premises, and all persons entering or holding under them, and for such other or further relief as may be just, with costs of suit.

B. S. BROOKS,
Solicitor for Complainants, and of Counsel.

WM. LEVISTON, *Of Counsel.*

STATE OF CALIFORNIA, }
City and County of San Francisco, } *ss:*

Rudolph Steinbach, being duly sworn, deposes and says: That he is one of the plaintiffs in the above-entitled action; that he has read the foregoing complaint and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated upon information or belief, and as to those matters he believes it to be true.

RUDOLPH STEINBACH.

9 Subscribed and sworn to before me, this 7th day of October, A. D. 1881.

[SEAL.] SAM'L S. MURFEY,
Notary Public.

Endorsed: Filed October 7th, 1881. L. S. B. Sawyer, clerk, by J: F. O'Beirne, deputy clerk.

10 *Subpœna.*

UNITED STATES OF AMERICA:

Circuit Court of the United States, North Circuit, District of California. In Equity.

The President of the United States of America, Greeting, to Alexander P. More, John A. Haralson, R. C. Carlton, William Lineberger, Mahlon Thorne and Mary Thorne, his wife; John Doe, Richard Roe, Hans Schmidt, Ivan Schmittouski, Ogan Ta Schmitt, and John Smith:

You are hereby commanded that you be and appear in said circuit court of the United States aforesaid, at the court-room in San Francisco, on the first Monday of December, A. D. 1881, to answer a bill of complaint exhibited against you in said court by Rudolph Steinbach, a resident of San Francisco, an alien, a subject of
11 the Empire of Germany, and Horace W. Carpentier, a citizen of the State of New York, and there resident, and to do and receive what the said court shall have considered in that behalf, and this you are not to omit, under the penalty of five thousand dollars.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 8th day of October, in the

year of our Lord one thousand eight hundred and eighty-one, and of our Independence the 106th.

L. S. B. SAWYER, *Clerk*,
By J. F. O'BEIRNE, *Deputy Clerk*.

Memorandum pursuant to Rule 12, Supreme Court U. S.

You are hereby required to enter your appearance in the above suit on or before the first Monday of December next, at the
12 clerk's office of said court, pursuant to said bill; otherwise, the said bill will be taken *pro confesso*.

L. S. B. SAWYER, *Clerk*,
By J. F. O'BEIRNE, *Deputy Clerk*.

Endorsed.

OFFICE U. S. MARSHAL.

I hereby certify that I received the within writ on the 8th day of October, 1881, and on the same day, at the city and county of San Francisco, in this district, I personally served the same on John A. Haralson, and on the 12th day of October, 1881, at the county of Ventura, in this district, I personally served the same on R. C. Carlton; and on the 13th day of October, at the same county, I personally served the same on William Lineberger, Mahlon Thorne, Mary Thorne, his wife, and John Doe, whose true name is Manuel Lopez; and on the 14th day of October, 1881, at the same county, I
13 personally served the same on Richard Roe, whose true name is José Vincente Gilber, all defendants herein named, by delivering to and leaving with each of said above-named defendants personally an attested copy of this writ.

A. W. POOLE, *U. S. Marshal*,
By C. H. PETERSON, *Deputy*.

I further certify that on the 14th day of November, 1881, at the city and county of San Francisco, in this district, I personally served the within writ on Alexander P. More, one of the defendants named herein, by delivering to and leaving with said defendant personally an attested copy of this writ.

A. W. POOLE, *U. S. Marshal*,
By CHAS. S. FAVOR, *Deputy*.

Filed November 16, 1881.

L. S. B. SAWYER, *Clerk*,
By J. F. O'BEIRNE, *Dep. Cl'k*.

14 *Demurrer.*

In the Circuit Court of the United States, 9th Circuit, District of California. In Equity.

RUDOLPH STEINBACH and HORACE W. CARPENTIER, Pl'ffs,
vs.
ALEXANDER P. MORE, JOHN A. HARALSON, R. C. CARLTON, WILLIAM Lineberger, Mahlon Thorne, and Mary Thorne, his wife; John Doe, Richard Roe, Hans Schmidt, Irvan Schmittouski, Ogan Ta Schmitti, and John Smith, Def'ts.

The demurrer of Alexander P. More, John A. Haralson, R. C. Carlton, William Lineberger, and Mahlon Thorne, defendants, to the bill of complaint of Rudolph Steinbach and Horace W. Carpentier, plaintiffs.

15 The defendants, Alexander P. More, John A. Haralson, R. C. Carlton, William Lineberger, and Mahlon Thorne, respectively, by protestation, not confessing or acknowledging all or any of the matters and things in the said plaintiffs' bill of complaint contained to be true in such manner and form as the same are therein and thereby set forth and alleged, do demur to said "bill," and for cause of demurrer show:

1st. That said complainants have not by their said bill made such a case as entitles them in a court of equity to any relief from or against the defendants, or either of them, touching the matters contained in said bill, or any of such matters.

2d. Because said bill does not contain any matter of equity whereon this court can ground any decree or give the said plaintiffs any relief against these defendants.

16 3d. And because the said plaintiffs are not entitled upon said bill to the relief prayed for, because they have a plain and adequate remedy at law.

4th. And because it appears from said "bill" that this court has no jurisdiction to hear and determine the matters therein set forth or make any final decree thereon.

Wherefore for divers other good causes of demurrer appearing in said bill of complaint these defendants demur to the said bill, and to all the matters and things therein contained, and humbly pray judgment of this honorable court whether he shall be compelled to make any further or other answer to the said bill; and they pray to be hence dismissed, with their reasonable costs in this behalf sustained.

We certify that in our opinion the foregoing demurrer of the defendants, Alexander P. More, John A. Haralson, R. C. Carlton,

17 William Lineberger, and Mahlon Thorne, to the bill of complaint of Rudolph Steinbach and Horace W. Carpentier, complainants, is well founded in law and proper to be filed in the above cause.

GEORGE FLOURNOY,
Solicitor for said Defendants, and of Counsel.
JOHN B. MHOON,
Solicitor for said Defendants, and of Counsel.

UNITED STATES OF AMERICA, } ss:
9th Circuit, District of California, }

Alexander P. More, being duly sworn, does depose and say: That he is one of the defendants in the above-named case; that he has read the foregoing demurrer to the bill of complaint in this suit, and that the same is not interposed for the purpose of delaying said suit or any proceedings therein.

18 A. P. MORE.

Subscribed and sworn to before me, this 31st day of December, A. D. 1881.

JOS. F. O'BEIRNE,
Comm'r of U. S. Circuit Court, Dist. of Cal.

Endorsed: Copy of the within demurrer received this 31st day of December, A. D. 1881. B. S. Brooks, sol'r for pl'ff. Filed Dec. 31st, 1881. L. S. B. Sawyer, clerk, by J. F. O'Beirne, deputy clerk.

19 At a stated term, to wit, the February term, A. D. 1882, of the circuit court of the United States of America, of the ninth judicial circuit, in and for the district of California, held at the court room, in the city and county of San Francisco, on Monday, the 6th day of February, in the year of our Lord one thousand eight hundred and eighty-two.

Present: The Honorable Lorenzo Sawyer, circuit judge.

Order Overruling Demurrer.

R. STEINBACH *et al. vs.* A. P. MORE *et al.*

This cause coming on to be heard on the demurrer herein, George Flournoy, Esq., appearing on behalf of the defendants herein and said demurrer, and B. S. Brooks, Esq., on behalf of the plain-
20 tiff sand in support of the complaint, was argued and submitted to the court for consideration and decision; and the same having been duly considered, it is ordered that said demurrer be, and the same is hereby, overruled, with leave to the defendants to answer on or before the next rule day on payment of twenty dollars.

Order.

I hereby certify that the foregoing is a full, true, and correct copy of an original order made and entered in the above-entitled cause.

Attest my hand and the seal of said circuit court, this 12th day of October, A. D. 1883.

[SEAL.] L. S. B. SAWYER, *Clerk.*

21 *Answer of Alexander P. More.*

In the Circuit Court of the United States, 9th Circuit, District of California.

RUDOLPH STEINBACH *et al. vs.* ALEXANDER P. MORE *et al.*

The answer of Alexander P. More, defendant, to the bill of com-

plaint of Rudolph Steinbach and Horace W. Carpentier, complainants.

This defendant, reserving to himself all right of exception to the said bill of complaint, for answer thereto saith: That he has no information as to whether or not the plaintiff, Rudolph Steinbach, is a resident of San Francisco, or an alien, or a subject of the Empire of Germany, or whether or not the plaintiff, Horace W. Carpentier, is a citizen of the State of New York, or a resident thereof.

22 And this defendant, further answering said bill of complaint, denies that the said plaintiffs are the owners, or that either of them is the owner, in fee-simple, absolute, or at all, of all those premises described in said complaint, or any part thereof, embraced within the following boundaries and description, to wit: Commencing in the second ravine towards Santa Buenaventura, under the main road, which leads to the river of Santa Clara, the bearing being E. ¼ S., and passing between the small hills until it reaches said river, measuring 104 cordels; thence along the valley of said river in the direction N. E. ¼ E. to Six Alamos trees, which are on the right bank of the river, and to the west of the point of the hill tops, measuring 155 cordels; from these Alamos trees due east to the said point of the hill tops, crossing the river, measuring 26 cordels; thence in the same bearing over the

23 skirt of the hills about 150 varas to a small ravine or gully, on the left bank of which and at the foot of the slope of the hills is a small sanguite tree, 130 cordels; then along the skirt of the hills east northeast to the Aroyo "Colorado," 55 cordels; thence crossing the hills to the confluence of the Aroyo de Mupee with the said Santa Clara river, estimated to be 35 cordels; thence bearing northwest and following the course of the Aroyo de Mupee to its junction with the Aroyo de Susa, 200 cordels; thence up the bed of said Aroyo de Susa 30 cordels; then, again, beginning on the said second ravine towards Santa Buenaventura, on the road to Santa Clara river, the same being the first starting point; thence due north to the summit of the hills where is the source of the small ravine which comes to the plain, 66 cordels; thence following the

24 same direction, passing over the peak of the high hill-, which serve as a boundary for the Messrs. Morager, to the summit of the hills called the "Azufre," estimated about one and three-quarter leagues; that is, 175 cordels; thence following the ridge or summit of these tall hill tops running a course about east northeast, or very nearly so, to the Aroyo de Susa and its confluence with the Aroyo de Mupee aforesaid, said premises being in Ventura county, California; but as to the remaining portion of said premises described in said complaint not embraced within the tract above bounded and described, this defendant admits that so far as this defendant is informed plaintiffs may be as alleged the owners thereof, as this defendant does not now and never has claimed the same, or any part thereof. And further answering said com-

25 plaint, this defendant admits that he claims an estate in fee-simple in that portion of said premises described in said complaint which is contained within the tract last above-described

adverse to said plaintiffs, and in this behalf avers that he is now, and his grantors and predecessors in interest have been ever since the year 1834, the owner and owners in fee-simple absolute of all the lands and premises hereinbefore particularly described, including that portion of said premises described in said complaint which lie within and are embraced by the boundaries hereinabove set out; that he owns and claims said premises under and by virtue of a grant duly made by Governor Alvarado to Manuel Jimeno on the 28th of April, 1840; that said grant was duly approved by the Departmental Assembly on the 26th day of May, 1840; that
26 thereafter on the 1st day of April, 1843, Micheltorena, then Governor and Political Chief of the Department of the Californias, ratified and confirmed said grant to the extent and boundaries hereinbefore set out; that on the 17th and 18th of November, 1847, said grant was duly surveyed, and said Jimeno then and there placed in the actual occupation of said premises according to the boundaries hereinabove set out by Pablo de la Guerra, the first alcalde of the district in which said lands were situated; that all the neighboring proprietors of adjoining lands were present at said survey and delivery of judicial possession aforesaid, and then and there consented and agreed to the lines established by said survey, and then and there saw said Jimeno go into the actual possession of said premises according to said lines without objection; that said grant was finally confirmed to be a
27 valid grant under the act of Congress approved March 3d, 1851, entitled "An act to ascertain and settle the private land claims in California," on the 4th day of March, 1858. That this defendant has succeeded by proper mesne conveyances to all the rights, title, and interest of said Jimeno in and to said premises granted, confirmed, and surveyed as aforesaid, and now remains the owner thereof, except certain portions not embraced within the tract described in the complaint herein, which said portion this defendant has heretofore alienated. And, further answering said bill of complaint, defendant denies that the right, title, or interest of this defendant in or to said portion of said premises described in said complaint, which are embraced within the tract herein bounded and described, is wholly or partly or at all unfounded or invalid
28 in law or equity, or that this defendant has not any estate or the whole estate in law and equity in and to that part or portion of said premises described as being within the two tracts, to wit, the tract described in plaintiffs' complaint and the tract described in this answer.

And, further answering the said bill of complaint, this defendant denies that his said adverse claim, or any adverse claim of this defendant, depreciates the value of plaintiffs' title on property or prevents plaintiff from using or selling the property mentioned in the complaint or any part thereof, except that portion of the same herein referred to as lying and being within the boundaries of the said tract herein described; or that this defendant harrasses or annoys plaintiffs, or either of them, in the possession or ownership of their property, or any part thereof.

29 And this defendant denies all and all manner of unlawful confederacy and combination wherewith he is by said bill charged, without this, that there is any other matter, cause, or thing in the said complainants' said bill of complaint contained material or necessary for this defendant to make answer unto and not herein and hereby well and sufficiently answered, traversed, avoided, and denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

FLOURNOY & MHOON,
Solicitors for Defendant, A. P. More, and of Counsel.

30 STATE OF CALIFORNIA, }
City & County of San Francisco, } ss:

A. P. More, being first duly sworn — defendant, says: that he is the defendant named in the foregoing answer; that he has read the same and knows the contents thereof, and that the same is true of his own knowledge, except as to matters therein stated on information or belief, and as to — matters he believes it to be true.

A. P. MORE.

Subscribed and sworn to before me, this 28th of Feb'y, 1882.
[SEAL.] SAM'L S. MURFEY,
Notary Public.

STATE OF CALIFORNIA, }
City & County of San Francisco, } ss:

John B. Mhoon, being first duly sworn, says: That he is
31 over the age of 21 years; not a party to the within suit; that he this 28th day of Feb'y, 1882, served a copy of the within answer on B. S. Brooks, the solicitor for complainants herein, by leaving at the office of said Brooks, No. 6 Montgomery avenue, in said city & county, said copy hereof; that said Brooks refused to admit service thereof; hence affiant makes this affidavit to prove the same.

J. B. MHOON.

Subscribed and sworn to before me, this 28th day of Feb., 1882.
JOS. F. O'BEIRNE,
Comm'r of U. S. Circuit Court, Dist of Cal.

Filed Feb'y 28, 1882.

L. S. B. SAWYER, *Clerk,*
By J. F. O'BEIRNE, *Deputy Clerk.*

32 *Order that Answer of A. P. More be Stricken from Files, &c.*

At a stated term, to wit, the February term, 1882, of the circuit court of the United States of America of the ninth judicial circuit,

in and for the district of California, held at the court-room in the city and county of San Francisco, on Tuesday, the seventh day of March, in the year of our Lord one thousand eight hundred and eighty-two.

Present: The Honorable Lorenzo Sawyer, circuit judge.

R. STEINBACH *et al. vs.* A. P. MORE *et al.*

On motion of B. S. Brooks, Esq., on behalf of plaintiff, it is ordered that the answer of the defendant, A. P. More, herein be stricken from the files unless the costs imposed by the court,
33 amounting to twenty dollars, as a condition precedent to the filing of said answer, be paid within two days from the notice of this order.

I hereby certify that the foregoing is a full, true, and correct copy of an original order made and entered in the above-entitled cause.

Attest my hand and the seal of said circuit court, this 12th day of October, A. D. 1883.

[SEAL.] L. S. B. SAWYER, *Clerk.*

34 *Replication.*

In the Circuit Court of the United States, 9th Circuit, District of California. In Equity.

RUDOLPH STEINBACH & HORACE W. CARPENTIER
vs.
ALEXANDER P. MORE *et al.*

The replication of Rudolph Steinbach and Horace W. Carpentier, plaintiffs, to the answer of Alexander P. More, defendant.

These repliants, saving and reserving to themselves now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereunto, say: That they will aver, maintain, and prove their bill of complaint to be true,
35 certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants without this, that any other matter or thing whatsoever in the said answer contained, material, or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed, and avoided, traversed, or denied, is true; all of which matters and things these repliants will be ready to aver, maintain, and prove as the honorable court shall direct, and humbly pray as in and by their bill they have already prayed.

B. S. BROOKS,
Sol'r for P'l'ffs.

Endorsed: Service of the within is hereby admitted this 14 day of M'ch, 1882. Flournoy & Mhoon & F. Filed March 14th, 1882. L. S. B. Sawyer, clerk.

36 *Answer.*

In the Circuit Court of the United States, 9th Circuit, District of California.

RUDOLPH STEINBACH *et al. vs.* ALEXANDER P. MORE *et al.*

The answer of Alexander P. More, John A. Haralson, B. C. Carlton, Wm. Lineberger, Mahlon Thorn, and Mary Thorn, defendants to bill of complaint of Rudolph Steinbach and Horace W. Carpentier, complainants.

The defendants, reserving to themselves all right of exception to the said bill of complaint, for answer thereto saith: That they had no information as to whether or not the plaintiff, Rudolph Steinbach, is a resident of San Francisco, or an alien, or a subject to the Empire of Germany, or whether or not the plaintiff, Horace
37 W. Carpentier, is a citizen of the State of New York, or a resident thereof.

And defendants, further answering said bill of complaint, deny that the said plaintiffs are the owners, or that either of them is the owner in fee-simple absolute or at all of all those premises described in said complaint, or any part thereof embraced within the following boundaries and description, to wit: Commencing in the second ravine toward Santa Buenaventura, and on the main road which leads to the river of Santa Clara, the bearing being E. ¼ S., and passing between the several hills until it reaches said river, measuring 104 cordels; thence along the valley of said river in the direction N. E. ¼ E. to six alamos trees, which are on the right bank of the river and to the west of the point of the hill tops measuring 155
38 cordels. From these alamos trees due east to the said point of the hill tops, crossing the river measuring 26 cordels; thence in the same bearing over the skirt of the hills about 150 varas, to a small ravine or gully, on the left bank of which, and at the foot of the slope of the hills is a small sanguite tree 130 cordels; thence along the skirt of the hills east northeast to the Aroyo "Colorado" 55 cordels; thence crossing the hill to the confluence of the Aroyo de Mupu with the said Santa Clara river, estimated to be 35 cordels; thence bearing northwest, and following the course of the Aroyo de Mupu to its junction with the Arozo de Susa 200 cordels; thence up the bed of said Arozo de Susa 30 cordels. Then again beginning at the said second ravine towards Santa Buenaventura on the road to Santa Clara river, the same being the first starting point; thence due north to the summit of the hills
39 where is the source of the small ravine which comes to the plain 66 cordels; thence following the same direction passing over the peaks of the high hills which serve as a boundary for the Messrs. Moraza to the summit of the hills called the "Azufre," situated about one and three-quarter leagues, that is, 175 cordels; thence following the ridge or summit of these tall hill tops running a course about east northeast, or very nearly so, to the Arozo de Susa and its confluence with the Arozo de Mupu aforesaid, said premises being in Ventura county, California.

And defendants aver that the patent referred to in said complaint, as having been issued by the United States to Manuel A. Rodriguez de Poli, on the 24th day of August, 1874, under and by virtue of which defendants are informed and believe said plaintiffs claim
40 said land, is void, for the reason that the grant or sale recited in said patent as having been made by Pio Pico, Governor of California, to one José Arnos on the 8th day of June, 1846, upon which said patent purports to have issued, was never in fact made by said Pio Pico, or any other person having authority to make the same.

But as to the remaining portion of said premises described in said complaint not embraced within the tract above bounded and described, defendants do not now, and never have, claimed the same or any part thereof.

And further answering said complaint, defendants admit that they claim an estate in fee-simple in that portion of said premises described in said complaint, which is contained within the tract last above described adverse to said plaintiffs, and in this behalf aver that the defendant, A. P. More, is now, and his grantors and
41 predecessors in interest have been ever since the year 1834, the owner and owners in fee-simple absolute of all the lands and premises hereinbefore particularly described, including that portion of said premises described in said complaint which lie within and are embraced by the boundaries herein above set out; that he owns and claims said premises under and by virtue of a grant duly made by Governor Alvarado to Manuel Jimeno on the 28th of April, 1840; that said grant was duly approved by the Departmental Assembly on the 26th day of May, 1840; that thereafter on the 1st day of April, 1843, Micheltorena, then Governor and Political Chief of the Department of the Californias, ratified and confirmed said grant to the extent and boundaries hereinbefore set out; that on the 17th and 18th of November, 1847, said grant was duly sur-
42 veyed, and said Jimeno then and there placed in the actual occupation of said premises according to the boundaries herein above set by Pablo de la Guerra, the first alcalde of the district in which said lands were situated; that all the neighboring proprietors of adjoining lands were present at said survey and delivery of juridical possession aforesaid, and then and there consented and agreed to the lines established by said survey, and then and there saw said Jimeno go into the actual possession of said premises according to said lines without objection.

That said grant was finally confirmed to be a valid grant under the act of Congress, approved March 3d, 1851, entitled "An act to ascertain and settle the private land claims in California."

On the 4th day of March, 1858, that this defendant has
43 succeeded by proper mesne conveyances to all the rights, title, and interest of said Jimeno in and to said premises granted, confirmed, and surveyed as aforesaid, and now remains the owner thereof, except certain portion not embraced within the tract described in the complaint herein, which said portion this defendant has heretofore alienated, and also except those premises herein-

after described as belonging to the said defendants Harralson, Carlton, Lineberger, and Mahlon and May Thorn, and further answering said bill of complaint defendants deny that the right, title, or interest of said defendants, or either of them, in or to said portion of said premises described in said complaint, which are embraced within the tract herein bounded and described, is wholly or partly, or at all unfounded or invalid in law or equity, or that defend-
44 ants have not any estate or the whole estate in law and equity in and to that part or portion of said premises described as being within the two tracts, to wit, the tract described in plaintiffs' complaint, and the tract described in the answer as herein alleged.

And further answering the said bill of complaint, defendants deny that their said adverse claim or any adverse claim of these defendants depreciates the value of plaintiffs' title or property, or prevents plaintiffs from using or selling the property mentioned in the complaint, or any part thereof, except that portion of the same herein referred to as lying and being within the boundaries of the said tract herein described, or that defendants harass or annoy plaintiffs, or either of them, in the possession or ownership of their property or any part thereof.

45 And the defendants, John A. Harralson and R. C. Carlton, aver that they are each the owners of the undivided one-half of the following lot or parcel of said lands in this answer heretofore described, to wit: All that tract of land situated in Ventura county and bounded on the south by a tract known as tract "B," on the west by the summit of the first ridge west of the Santa Paula Cañon, on the north by the north line of the Santa Paula y Saticoy grant, and on the east by the Santa Paula creek, containing about 500 acres; that said 500 acres are included in the tract heretofore in this answer described, and these defendants claim said premises under and by virtue of a conveyance therefor from their co-defendant, A. P. More, whose title thereto is herein fully set out. That the defendants, Wm. Lineberger, is the owner and claims title to
46 the following tract or parcel of land situated in the county of Ventura, and described as follows: The one hundred and sixty acres known as tract "J," adjoining this tract upon which said defendant Lineberger now lives; that said 160 acres are included in the tract heretofore in this answer described as having been granted to Jimeno, and this defendant claims the same under and by virtue of a conveyance therefor from their co-defendant, A. P. More, whose title thereto is herein fully set out.

That the defendants, Mahlon Thorn and Mary Thorn, his wife, are the owners of and claim title to the following tract of land situated in Ventura county, described as follows, to wit: Commencing at the northeast corner of subdivision No. 21, as surveyed by W. H. Houvay, thence northerly along the line of G. G. Sewall 130 rods to a rock mound; thence westerly in a parallel line with
47 the north line of the Briggs ranch 160 rods to a rock mound; thence south along the east line of the claim of Wm. O'Hara to the line of the said Briggs ranch; thence easterly along said line

to the place of beginning, being 160 acres, more or less; that said premises are included in the tract heretofore described as having been granted to Jimeno, and these defendants claim the same under and by virtue of a conveyance therefor from their co-defendant, A. P. More, whose title thereto is herein fully set out.

And defendants deny all and all manner of unlawful confederacy and combination wherewith they are by said bill charged, without this, that there is any other matter, cause, or thing in said complainants' said bill of complaint contained material or neces-
48 sary for defendants to make answers unto and not herein and hereby well and sufficiently answered, confessed, traversed, avoided, and denied, — is true to the knowledge or behalf of defendants, or either of them; all of which matters and things defendants are ready and willing to aver, maintain, and prove as this honorable court shall direct, and hereby pray to be hence dismissed with reasonable costs and charges in this behalf most wrongfully sustained.

FLOURNOY & MHOON &
FLOURNOY,
Solicitors for Defendants and of Counsel.

STATE OF CALIFORNIA, }
County of Ventura, } *ss:*

John A. Haralson, being first duly sworn, deposes and says: That he is the defendant named in the foregoing answer; that he
49 has read the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matter therein stated on information or belief, and as to those he believes it to be true.

JOHN A. HARALSON.

Subscribed and sworn to before me, this 18 day of March, 1882.
[SEAL.] W. E. SHEPHERD,
Notary Public.

STATE OF CALIFORNIA, }
City & County of San Francisco, } *ss:*

Geo. Flournoy, Jr., being first duly sworn, says: That he is over the age of 21 years; that he served a true copy of the within answer on B. S. Brooks, the solicitor for plaintiffs, by leaving the same at the office of Mr. Brooks, No. 6 Montgomery avenue, San Francisco, on the 25th day of March, 1882, between the hours of
50 10 o'clock a. m. and 3 o'clock p. m. of said day.

GEO. FLOURNOY, JR.

Subscribed and sworn to before me, this 25th day of March, 1882.
[SEAL.] SAM'L S. MURFEY,
Notary Public.

(Endorsed:) Filed March 25, 1882. L. S. B. Sawyer, clerk.

51 *Replication.*

In the Circuit Court of the United States, 9th Circuit, District of California.

RUDOLPH STEINBACH and HORACE W. CARPENTIER
vs.
ALEXANDER P. MORE *et al.*

The replication of Rudolph Steinbach and Horace W. Carpentier, plaintiffs, to the answer of Alexander P. More, John A. Haralson, R. C. Carlton, Wm. Lineberger, Mahlon Thorn and Mary Thorn, defendants.

These repliants, saving and reserving to themselves now and at all times hereafter all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereto, says that they will aver, maintain, and prove their bill of complaint to be true, certain,
52 and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by these repliants, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all of which matters and things these repliants will be ready to aver, maintain, and prove as this honorable court shall direct, and humbly pray as in and by their bill they have already prayed.

B. S. BROOKS,
Sol'r for Pl'ff-.

Endorsed: Filed April 21, 1882. L. S. B. Sawyer, clerk.

53 *Enrollment.*

United States Circuit Court, Ninth Circuit, District of California.

RUDOLPH STEINBACH *et al.*, Complainants, } No. 2666.
vs.
ALEXANDER P. MORE *et al.*, Defendants. }

The complainants filed their bill of complaint herein on the 7th day of October, 1881, which is hereto annexed.

A subpœna to appear and answer in said cause was thereupon issued, returnable on the first Monday of December, A. D. 1881, which is hereto annexed.

The defendants, Alexander P. More, John A. Haralson, R. C. Carlton, William Lineberger, and Mahlone Thorn, appeared
54 herein on the 5th day of December, 1881, by Flournoy & Mhoon, Esqs., their solicitors.

A demurrer to said bill of complaint was filed herein on the 31st day of December, 1881, which is hereto annexed.

On the 6th day of February, 1882, an order on said demurrer was made, a certified copy of which is hereto annexed.

On the 28th day of February, 1882, an answer was filed herein, which is hereto annexed.

On the 7th day of March, 1883, an order on said answer was made and entered, a certified copy of which is hereto annexed.

A replication to said answer was filed herein on the 14th day of March, 1882, which replication is hereto annexed.

On the 25th day of March, 1882, an answer was filed herein,
55 which is hereto annexed.

A replication to said answer was filed on the 21st day of April, 1882, which replication is hereto annexed.

Thereafter a final decree was filed and entered herein in the words and figures following, to wit:

At a stated term, to wit, the July term, A. D. 1883, of the circuit court of the United States of America, of the ninth judicial circuit, in and for the district of California, held at the court-room in the city and county of San Francisco, on the 8th day of October, in the year of our Lord one thousand eight hundred and eighty-three.

Present: The Honorable Lorenzo Sawyer, circuit judge.

56 *Enrollment Decree.*

RUDOLPH STEINBACH and HORACE W. CARPENTIER
vs.
ALEXANDER P. MORE *et al.*
} No. 2666.

This cause came on to be heard at the February term, to wit, on the 15th day of March, A. D. 1883, upon pleadings and proofs as to defendants, Alexander P. More, J. A. Haralson, R. C. Carlton, William Lineberger, Mahlon Thorne, and Mary Thorne, and on the bill taken as confessed by Manuel Lopez (served as John Doe) and José Vicénté Gilbert (served as Richard Roe). Mr. B. S. Brooks appeared on behalf of plaintiffs, and Messrs. Flournoy and Mhoon appeared on behalf of defendants, answering; and after hearing counsel for plaintiffs and defendants, and the proofs, the cause was submitted and taken under advisement; and the court now
57 having duly considered the evidence and the arguments of counsel, and it appearing to the court that the plaintiffs are the owners in fee-simple absolute of tract No. 1 of the Rancho Ex-Mission de San Buenaventura, described in the complaint, which was patented by the United States of America to Manuel A. Rodriguez de Poli on the 24th day of August, A. D. 1874, and that the claims of the defendants of a right or interest in the said premises adverse to the said plaintiffs are wholly unfounded and invalid in law and in equity, and that said defendants have not, nor have either of them, any estate, right, title, or interest at law or in equity in or to the real estate described in the complaint, or in or to any part thereof, and that the allegations of the complaint are true, and the plaintiffs entitled to the relief prayed for—

58 It is ordered, adjudged, and decreed that the said plaintiffs are the owners in fee of the said real estate and entitled to possession thereof; that the adverse claims of the said defendants,

and each of them, of an estate or interest therein are unfounded in law and equity, fictitious, and wholly invalid, and that the plaintiffs have a writ of assistance to place them in possession of the said premises against the said defendants, and each of them, if any of them should be found to be in possession of any portion of said premises, and all persons entering or holding under them, and that the plaintiffs do have and recover from said defendants their costs in this behalf expended.

The boundaries and description of the said real property are as follows:

59 All that certain tract of land in the county of Ventura, State of California, known as tract No. one (1) of the lands of the ex-Mission of San Buenaventura, patented by the United States to Manuel A. Rodriguez de Poli on the 24th day of August, A. D. 1874, commencing at post O, No. 1, in mound of rocks in the east boundary-line of the Rancho Santa Ana, being corner No. 1 of the official survey of the Rancho Ojai, about 46 chains north of the township line, between townships 3 and 4 north, range 23 W., San Bernardino meridian; thence running easterly along the Cuchillo de Azufre to a live-oak tree on Mupee creek, marked O 14, being the easterly corner of the Ojai Rancho; thence southerly down the general course of Mupee creek S. 16½ E. 224 ch's 38 links to a sycamore tree marked S. P. 11, S. B. Ex-M., being a corner of the Santa Paula y Saticoy Rancho as patented; thence southerly

60 and southwesterly along the boundary of said Rancho Santa Paula y Saticoy to its intersection with the boundary of the Rancho San Miguel; thence westerly to the northerly corner of said Rancho San Miguel; thence southerly along the west boundary thereof to the seashore; thence westerly along the seashore to the mouth of the San Buenaventura river; thence northerly up the middle of said river to the southerly boundary of the Rancho Cañada Larga y Verde; thence following the southern boundary of said rancho southeasterly, northwesterly, and northerly to corner No. 11 of said Rancho Cañada Larga y Verde; thence leaving the line of said rancho and running N. 85° E. 309.28 chains to post in mound; thence N. 40° 15′ E. 133.68 chains to a live-oak tree marked S. B. M. 23; thence north 39.48 chains to post in mound; thence west

61 on a line which is due east from the southeast corner of the Rancho Santa Ana 210.80 chains to intersection with the southeastern boundary of the Rancho Cañada Larga y Verde; thence following the southeastern, eastern, and northern boundaries of said rancho to the northwest corner thereof, at the intersection of its northern boundary with the eastern boundary of the Rancho Santa Ana, marked by a post in a rock mound C. L. No. 2; thence northerly along the eastern boundary of the Rancho Santa Ana to the place of commencement, excepting therefrom the town of San Buenaventura with the boundaries established by law; excepting therefrom also the piece of land sold to and now lately occupied by G. G. Sewell, bounded and described as follows, to wit: Commencing at the northwest corner of lot No. 22, of subdivision of

62 the Rancho Santa Paula y Saticoy, running thence N. 36°

W. 80 chains to a post in stone mound; thence N. 54° E. to the northwest line of the final survey of said Rancho Santa Paula y Saticoy; thence along said line of final survey S. 14° 36′ W. to the northeast corner of said lot No. 22 and post S. P. 10, being a common corner of the Rancho Santa Paula y Saticoy and of said tract No. one of the lands of the Ex-Mission of Santa Buenaventura; thence along the north boundary of said lot being also on the southeastern boundary of said tract No. 1 S. 64° W. 38.75 chains to the point of commencement.

(Signed) LORENZO SAWYER,
Circuit Judge.

Endorsed: Filed and entered October 12, 1883. L. S. B. Sawyer, clerk.

63 *Memorandum of Costs and Disbursements.*

UNITED STATES OF AMERICA:

Circuit Court of the United States, Ninth Circuit, District of California.

RUDOLPH STEINBACH *et al.*, Plaintiffs,
vs.
ALEX. P. MORE, Defendant.

Disbursements.

Marshal's fees, serving process, mileage, &c.	$93 00
Clerk's fees (U. S. C. C.), filing compl't, entering decree, &c., &c., issuing subpœnas	34 10
Printing brief (dis'd)	21 00
Recording *lis pendens* (obj. to)	5 25
Telegrams to and from county clerk of Santa Barbara Co. in relation to patent (obj. to)	2 25
Fees paid county clerk Santa Barbara for certified copy patent Rancho Santa Paula y Saticoy	12 40
64 Certified copy deeds from recorder Ventura Co.	15 60
Co. recorder's (Ventura Co.), certified abstract of part Rancho, Santa Paula y Saticoy (obj. to)	10 10
Fees paid clerk U. S. dist. ct. for certified copy papers in Davidson *vs.* U. S.	14 70
Fees paid clerk U. S. dist. ct., certified copy decree U. S. *vs.* Davidson	1 70
Tracing & map of premises in suit (dis'd)	5 00
Affidavits to compl't, costs bill, &c.	1 50
Docket fee	20 00
Total	$238 10
	26 00
Taxed at	$212 10

L. S. B. SAWYER, *Clerk.*

Retaxed by the judge in same am't, $212.10.

65 UNITED STATES OF AMERICA, }
District of California, City and County of San Francisco, } *ss:*

Raphael Citron, being duly sworn, deposes and says: That he is managing clerk in the office of B. S. Brooks, Esq., the attorney for the plaintiffs in the above-entitled cause, and as such is better informed relative to the above costs and disbursements than the said plaintiffs; that the items in the above memorandum contained are correct to the best of this deponent's knowledge and belief, and that the said disbursements have been necessarily incurred in the said cause.

RAPHAEL CITRON.

Subscribed and sworn to before me, this 13th day of October, A. D. 1883.

[SEAL.] SAM'L S. MURFEY,
Notary Public.

66 To Flournoy, Mhoon, and Flournoy, Esqs., att'ys for def'ts:

You will please take notice that on Monday, the 15th day of October, A. D. 1883, at the hour of 10 o'clock a. m., I will apply to the clerk of said court to have the within memorandum of costs and disbursements taxed pursuant to the rule of said court in such case made and provided.

B. S. BROOKS,
Attorney for Plaintiff.

Endorsed: Filed this 13th day of October, A. D. 1883. L. S. B. Sawyer, clerk.

67 *Clerk's Certificate.*

Whereupon said pleadings, subpœna, final decree, and memorandum of taxed costs are hereto annexed, said decree being duly signed, filed, and enrolled pursuant to the practice of said circuit court.

Attest, &c.:

[SEAL.] L. S. B. SAWYER, *Clerk.*

Endorsed: Enrolled papers. Filed October 12, 1883. L. S. B. Sawyer, clerk.

68 PLAINTIFFS' EXHIBIT.

Order to Return Survey.

In the United States District Court for the Southern District of California.

JOHN P. DAVIDSON *et al.*, Appellees, *ads.* THE UNITED STATES, Appellants. } Docket No. 328. Trans. No. 550. Santa Paula y Saticoy.

It being suggested to the judge that the survey of the land claimed in this case, made under final decree and approved by the United

States surveyor general for California, does not conform to said decree, and is erroneous, and that the survey will be to the injury of the said parties claimant, on application of J. L. Brent, attorney for claimants, it is ordered that the said surveyor general return to this court the plot of said survey, and that the claimants be
69 allowed twenty days from and after the return thereof to file exceptions thereto.

And it is further ordered that a certified copy of this order be served on the said surveyor general.

Given at chambers, this 16th day of April, 1861.

ISAAC S. K. OGIER,
U. S. Dist. Judge.

(Endorsed:) Filed April 16th, 1861. G. L. Mix, clerk.

70 *Exceptions to Survey.*

In the United States District Court for the Southern District of California.

JOHN P. DAVIDSON *et al.*, Appellees,
ads.
THE UNITED STATES, Appellants.

And now, on this day, come John P. Davidson *et al.*, the claimants and appellees above named, and file their exceptions to the survey of a portion of the lands claimed and confirmed in this case, the plat of which survey has been returned into this court of the United States surveyor general for California, and by him approved, which said exceptions are as follows:

He excepts to the northern line of said plat between stake marked "S. P. 4" and sycamore marked "Sycamore, S. P. 11,"
71 which said line is more particularly described as follows, to wit: Commencing at said stake marked "Stake S. P. 4," between stations 9 & 10 of said plot, thence running N. 81° E. 96.88 to stake S. P. 5, thence N. 83 E. 45.40 to stake S. P. 6, thence N. 65¾° E. 35.00 to stake S. P. 7, thence N. 60½° E. 115.94 to stake S. P. 8, thence N. 51½° E. 109.00 to point marked oak S. P. 9, thence N. 54° E. 342.00 to stake S. P. 10, thence N. 14° 36′ E. 208.51 to point marked S. P. 11.

And claimants aver that the whole of the lands included within the lines they now claim are within the limits of the said grant, as they are informed and verily believe; and they further aver that instead of the line above described, that the northern line of said grant should be as is more particularly described, as follows, to wit:

Commencing at the point marked on said plat as stake S. P. 4, between stations 9 & 10, as aforesaid, thence running N. 30°
72 E. 810.00 chains, thence N. 75° E. 235.00 chains to an oak tree, thence S. 16¼° E. 208.65 chains to the point marked on said plat as Sycamore S. P. 11.

And claimants further say they will be greatly damaged and injured should the patent for the lands claimed under the grant

aforesaid issue according to the said plat returned into court by the surveyor general of the United States for California.

Wherefore claimants pray that the survey of and the patent for said land be decreed by this hon. court to conform to the lines above claimed and described.

M. J. NEWMARK,
Appellees' Attorney.

UNITED STATES OF AMERICA, } ss:
State of California, County of Los Angeles, }

M. J. Newmark, being duly sworn, deposes and says: That
73 he is one of the attorneys of record for the claimants and appellees in the foregoing-entitled cause; that he has read the above exceptions and knows the contents thereof, and that the same are true of his knowledge, except as to the matters therein stated to be on information or belief, and that as to those matters he believes it to be true.

M. J. NEWMARK.

Sworn to and subscribed before me, this 28th day of May, A. D. 1861.

[SEAL.] W. G. DRYDEN,
Notary Public.

To K. H. Dimmick, Esq., United States attorney for the southern district of California:

You will please take notice that the foregoing exceptions to the survey in the case of John P. Davidson *et al. ads.* The United States,
74 will be brought on for a hearing, before the hon. United States district court for the southern district of California, within thirty days after the service of this upon you, or as soon thereafter as counsel can be heard.

Los Angeles, May 28th, 1861.

M. J. NEWMARK,
Appellees' Attorney.

Due and personal service of a copy of the above & foregoing exceptions & notice of hearing duly admitted and acknowledged, at the city of Los Angeles, this the 28th day of May, A. D. 1861.

K. H. DIMMICK,
U. S. Dist. Att'y, Southern Dist. Cal.

(Endorsed:) Filed in office this 28th day of May, A. D. 1861. G. L. Mix, cl'k.

75 *Amended Objections to Survey.*

United States District Court for the Southern District of California.
June Term, 1862.

THE UNITED STATES
vs.
JOHN P. DAVIDSON *et al.* } No. 328.

On objections to survey.

And now, at the present term of the court, leave being first had, the claimants, for further objections to the survey in said cause, as approved by the surveyor general, come and allege the following:

First. The said survey does not conform to the decree of confirmation in this case in this, that—

2. It does not conform to the grant and the map or diseño accompanying the expediente.

3. It does not include the land embraced by the grant either on the southern or northern boundary.

76 4. The survey does not include all the lands embraced by the grant and diseño attached to the grant.

V. E. HOWARD,
For Claimants.

(Endorsed:) Filed June 2, 1862. John O. Wheeler, clerk.

77 *Opinion.*

U. S. District Court for the Southern District of California.

THE UNITED STATES
vs.
JOHN P. DAVIDSON *et al.*, for Santa Paula y Saticoy.

This case comes before the court on exceptions to the survey. The grant is for four square leagues, a little more or less. The decree of confirmation is for the same quantity, but indicating the boundaries in the original grant.

I have had occasion heretofore to remark that quantity was the controlling matter in all these grants. Natural objects were indicated, within which the grantee was to have his quantity of land assigned to him. To give any other construction to these grants would lead to the greatest uncertainty.

78 In this case the northern boundary is wholly indefinite. If we take the top of the mountain, the claimant will have, in the limits of his grant, about eleven leagues, and the quantity will vary as the boundary is changed. If we take the base or foot of the mountain, and regard the remaining calls, the claimant has his quantity, and the calls of the grant are satisfied.

It was contended, on the argument of this case, that the decree of the board of land commissioners gave specific boundaries, irrespective of the quantity contained in the boundaries described. I do not so read the decree. "The boundaries in the decree are from the

'Aroyo de Mupee' on the east, the 'Lometa' on the west, and from the Sierra on the north, to 'Pocitos' on the south, containing four square leagues, a little more or less." The survey locates the lands within these boundaries, except it does not reach the Pocitos on the south.

79 It does not appear from the papers or evidence in the case whether making the Pocitos the southern boundary would or would not materially increase the quantity, reference being had to the other material objects indicated. The claimant, in any view of the case, is entitled to have four leagues measured off to him as he select within the boundaries mentioned in the grant & decree. In this proceeding we are to follow the decree and the boundaries there given, as I understand them, with the exception before mentioned, conform to the survey.

Much was said on the argument as to the terms, a little more or less in the grant and in the decree. I understand these letters to have significance in their ordinary and plain meaning. That is, the quantity is to be given in a convenient form and shape with reference to the interest of the claimant and that of the pub-

80 lic, and if, in so designating the quantity within the boundaries, it is exceeded or falls short by a few acres, or as the grant enlarges by a few hundred acres, the excess or deficiency is no objection to the survey. But when it is sought to expand a grant of four leagues into eleven under the terms, or little more [or] less, the proposition cannot be seriously entertained by claimant or counsel.

It remains to notice one other matter much pressed in regard to this survey. It appears that in 1847, after the change of government, judicial possession was given by an alcalde, and the land designated. The lines thus indicated, it is claimed, should now control the survey. It is argued, with much plausibility and ability, that a survey and designation by an alcalde is equivalent to a survey made under the authority of our surveying department, and

81 conclusive upon the government. There are two answers to this, and first, this survey or judicial possession was not made by any officer of the government, and that an alcalde, so-called, appointed by the military governor of the territory or elected, could do any act affecting the public domain, is a proposition which cannot be seriously entertained. How the alcalde, in this instance, was appointed or acquired his authority does not appear, and it is sufficient for our present purpose to say that any act of such real or pretended officer is void and of no effect. But these judicial possessions, when made under the former government of the county, are not conclusive. The better opinion seems to be, without now discussing the matter, that such possession and marking of boundaries is in all cases a fact to be taken into consideration in locations; but

82 where, as in this case, it is a total departure from the grant both as to quantity and boundaries, it must & ought to be entirely disregarded. As to powers of the alcalde since the conquest, see Field *vs.* Seabury *et al.*, 19th Howard S. C. Rep., 323.

As, however, the survey is objected to as not within the bounda-

ries designated in the grant & decree, that is, it does join the Pocitos on the south, and also does not appear to have been in *ade* with the concurrence of the claimant, I shall order the survey set aside (unless the claimant elects to take the survey as it is) and order a new survey to be made within the boundaries specified in the decree, and so as to contain four leagues, a little more or less, as I have defined these words, and to be surveyed in a compact form, as the claimant may elect, if, within these boundaries, there is an excess. The eastern & western boundaries are well de-
83 fined. The northern boundary is the sierra or mountain, & means the base or foot of the mountain, and as to the southern boundary it is not in the survey before the court defined, but the grant and decree call for the Pocitos on the south. The location of these is not difficult.

FLETCHER M. HAIGHT,
U. S. Dist. Judge S. Dist. Cal.

Endorsed: Filed June 25, '62. John O. Wheeler, clerk.

84 United States District Court, Southern District Cal'a. Regular June Term, A. D. 1862.

MONTEREY, *June 25th*, 1862.

JOHN P. DAVIDSON *et al.*, Appellees, *vs.* THE UNITED STATES, Appellants. } No. 328. Santa Paula y Saticoy.

This cause coming on to be heard upon the exceptions of the appellees to the final survey of the premises heretofore made and approved in this case, and no intervention having been filed therein, the same having been argued by counsel for the respective parties, and having been heard by the court and fully understood, it is ordered, adjudged, and decreed by the court that the said exceptions be taken as true, and the same are hereby allowed.
85 And it is further ordered, that the said surveyor general is hereby directed to make a resurvey of the premises claimed in this case in accordance with the decree of the board of land commissioners confirming the claim, to wit, from square leagues, a little more "or less," within the boundaries set forth therein, as follows: From the "Arroyo de Mupee" on the east, the "Comita" on the west, and from the "Sierra" on the north to "Pocitos" on the south, said survey to be run out in a compact form as the appellees may elect, if within these boundaries there is an excess.

And it is also ordered, that the clerk of this court transmit to said surveyor general the plot of said survey on file in this court, together with a certified copy of this order, for the further proceedings of said surveyor general.

Thus done in open court this 25th day of June, A. D. 1862.
86 FLETCHER M. HAIGHT,
U. S. Dist. Judge, South'n Dist. Cal'a.

(Endorsed:) Filed June 25, 1862. John O. Wheeler, cl'k. Recorded book A of decrees, p. 325.

87 *Petition to File Bill of Review.*

In the United States District Court in and for the Southern District of California.

JOHN P. DAVIDSON *et al.*
vs.
THE UNITED STATES. } On Survey.

To Hon. F. M. Haight, judge of said district:

The petitioners respectfully represent that the Governor of the Department of California, on the 28th day of April, 1840, granted to Manuel Jimeno Casarin a ranch or tract of land situated in the county of Santa Barbara, present State of California, known as Santa Paula and Saticoy; that said Jimeno Casarin duly conveyed said lands and rancho on the 11th day of October, 1852, to peti-
88 tioners; that petitioners duly presented their claim for confirmation to the United States board of land commissioners, organized under the act of Congress of 1851, by petition filed February 3d, 1853; that such proceedings were had before said commissioners that such claim was afterwards duly confirmed; that the appeal taken in said case was subsequently dismissed by order of the Attorney General of the United States, and that final decree of confirmation was subsequently entered in the district court of the United States for the southern district of California, in which district the said lands lie, all which will more fully appear by reference to the transcript and record and proceeding of court in said cause. That subsequently the surveyor general of the United States for the State of California proceeded and surveyed said ranch, and returned the same unto his office, which survey was approved by said surveyor general for the quantity of four leagues only.

89 Petitioners are advised that by a true and correct interpretation of said grant, and the decree of the United States commissioners and district court confirming the same, it is a confirmation to the petitioners for the whole tract of land to the extent of the natural boundaries of the same, be it more or less than four leagues. They also make known to your honor that said grant and confirmation contains a quantity very much more than four leagues by exact measurement.

Petitioners further allege that after the confirmation of said survey by the surveyor general the said survey was duly ordered into this court for adjudication, and at the last term thereof, in the county of Monterey, confirmed for four leagues, a little more or less, to be selected by claimants, and not according and to the whole extent of the exterior boundaries in said grant mentioned, and
90 recognized in the decree of confirmation of title, as petitioners are advised.

Petitioners further allege that they made all proper exertions and used due diligence to discover all evidence existing and pertinent to their case before said trial on said survey, either through themselves or their vendee, A. P. More, now one of the owners of said ranch; that since the trial of said cause at the last term, at Mon-

terey, and since the decree in said cause was signed, enrolled, and recorded, and since the adjournment of said court, the following important testimony has been discovered, to wit: Petitioners can establish by Dn. Andres Pico that the Mexican Government recognized, by the Governor of the Department of California, about the year 1845, the right of said Jimeno to all the lands within the
91 boundaries mentioned in his grant, as will appear by the affidavit of said Pico herewith presented.

Petitioners further state that since the trial of said cause they learn that they can prove by Jose Valdez and Raimundo Olivas and Juan Sanchez the well-known boundaries recognized by the Mexican Government, and the right of said Jimeno to all the lands within the boundaries mentioned in his grant, and that he expects to be able to procure the depositions of said witnesses by next term of this court, but that he has not been able to do so in season to procure their affidavits, for reason that they reside in the county of Santa Barbara, and petitioners did not learn the existence of their testimony until within the last two or three days said More was informed of the same by Andres Pico in the Mission of San Fernando, when, owing to the great distance of the residence of said
92 witness, he was not able to procure their affidavits in season for this application. Petitioners expect to [be] able to prove by said witnesses and said Andres Pico that the right to all the lands embraced within the exterior limits of said grant to Jimeno was fully recognized by the Governor of the Department of California and the Mexican authorities as early as the year 1845, and long previous to the 7th of July, 1846, and prior to the treaty of Guadaloupe Hidalgo between the United States and Mexico.

Petitioners further state that an application for rehearing or new trial was not made previous to the adjournment of the last term of this court held at Monterey, because neither they nor said A. P. More was advised or informed of said decree until after the same was enrolled, and after the said court had adjourned for the term.

Neither petitioners nor A. P. More are able to state whether
93 the document referred to in the affidavit of Andres Pico is on file in the office of the surveyor general of the United States of the State of California, because they have had no opportunity to search, as all the facts communicated to them, or either of them, on the subject were stated to them by said Andres Pico within the last two or three days.

Petitioners further state that said grant, as they are informed and believe, was confined to the extent of the exterior boundaries by Governor Micheltorena in 1843, and had also been previously confirmed to the same extent by the Departmental Assembly of California, in May 25th, 1840.

Petitioners therefore pray for leave to file a bill of revivor in this case, reviving the judgment of said court.

V. E. HOWARD,
For Petitioners.

94 STATE OF CALIFORNIA, } ss:
County of Los Angeles, }

Personally appeared A. P. More and, being sworn, deposes and says: That the foregoing petition has been read to him, and that he understands the same; that the allegations therein contained made as of the personal knowledge of petitioners are true as therein stated, and those as made on information and belief he believes them to be true.

This affidavit is made by affiant because the facts stated in the foregoing petition are more particularly within the knowledge of this affiant than of petitioners.

That affiant and his brother, T. W. More, purchased said ranch of petitioners, in different parcels, in the year- 1857 and 1859, since which time, in his own right and by authority of said petitioners, affiant has assumed control of said cause. Neither of said pe-
95 titioners now reside within the southern district of this court, and the affidavit of neither could be procured in season for this application.

A. P. MORE.

Subscribed & sworn to before me, this 4th day of Oct., A. D. 1882.
JOHN O. WHEELER,
Clk U. S. Dist. C't, Dist. Cala.

(Endorsed:) Filed Oct. 4, 1862. John O. Wheeler, clerk.

96 *Order from Minutes, Allowing Claimant to File Bill of Review.*

Intermediate Term, A. D. 1862. Los Angeles, October 4, 1862, 10 o'clock a. m.

J. P. DAVIDSON *et al.*, Appellee-, *ads.* THE UNITED STATES, Appellant. } D. C., No. —.

Now comes the parties into court by respective attorneys. Whereupon V. E. Howard, att'y for claimants, files and reads the petition and motion for leave to file bill of review, with affidavit of Andres Pico in support thereof, and the same being argued, is submitted and by the court granted.

And it is ordered that claimants have leave to file a bill of review in this cause at or before the first day of the next term of this court.

97 *Letter to Sur. Gen'l from his Deputy.*

(Copy.)

SAN FRANCISCO, *Oct. 6th*, 1863.

Hon. E. F. BEALE, *U. S. Sur. Gen'l, San Francisco.*

SIR: In compliance with instructions I have run the exterior lines of the Rancho Santa Paula y Saticoy in accordance with the grant

from Micheltorena and the original diseño found in the expediente. The land between the north boundary of the Terrell survey and that run by me is, with the exception of a small quantity in the northeast (known as Potrero of Santa Paula), almost wholly unfit for cultivation, and is not such land as would be subdivided by any conscientious deputy. Should the party be restricted to quantity, it would be impossible to include all the places called for in the grant in a compact form, as heretofore required; for instance, should
98 Saticoy be selected, then the Santa Paula is left out, and *vice versa*.

Very respectfully, your ob'd't serv.,
(Signed) G. H. THOMPSON, *Dep'y Sur.*

(Endorsed:) Filed Octo. 21, 1863. John O. Wheeler, cl'k.

99 *Exceptions to Resurvey.*

In the United States District Court for the Southern District of California.

JOHN P. DAVIDSON *et al.*, Appellees,
ads.
THE UNITED STATES, Appellants.

And now, on this day, came J. P. Davidson *et al.*, claimants, and B. C. Whiting, U. S. attorney for appellants, comes and files herein exceptions on behalf of the appellants to the resurvey & plat filed herein on the 6th day of June, 1864, the plat of which resurvey has been returned into this court by the United States surveyor general for California, and by him approved on the 8th day of April, 1864.

Which said exceptions are as follows:

100 Appellants except to the quantity of land contained in said resurvey & plat thereof filed as aforesaid, and say that the decree of confirmation upon which said resurvey was made limits the quantity of land to four square leagues, a little more or less (meaning a fraction of a league, more or less, if it should be ascertained upon accurate survey that there was such fractional surplus or deficiency within the exterior limits mentioned in said decree of confirmation). That the aforesaid resurvey & plat thereof includes eleven square leagues of land, and appellants ask that it be so modified as to reduce the quantity to four square leagues, and no more.

B. C. WHITING,
U. S. District Attorney for the Southern District of California.

Due service of a copy of the above exceptions and notice of hearing admitted June 7th, 1864.

101 PATTERSON, WALLACE & STOW,
Attorneys for Claimants.

Endorsed: Filed June 8th, 1864. John O. Wheeler, cl'k.

102 *Decree pro forma, Approving Survey.*

JOHN P. DAVIDSON *et al.* / *vs.* / THE UNITED STATES. } No. 328. For Rancho Santa Paula y Saticoy.

At a term of the district court of the United States for the southern judicial district, State of California, held at the court-house, in Monterey, on the 11th day of August, 1864—

Present: F. M. Haight, judge; J. O. Wheeler, clerk, &c.

The surveyor general of the U. S. for the State of California having on the 25th day of February, 1861, approved the official survey of the land confirmed to the claimants herein, and said surveyor general having given the notice and made the publication required by § 1 of the act of Congress of June 14, 1860, chap. CXXVIII, and an order having been made by this court, on motion of claimants, on the 16th day of April, 1861, that the said U. S. sur-
103 veyor general return a plat of said survey to this court, and the same having been returned and filed by him on the 2d day of June, 1862, and the claimants having filed exceptions to said survey, and the same having been argued and submitted, and no other persons having filed exceptions thereto or intervened in support of said survey, and the court having on the 25th day of June, 1862, made an order sustaining said exception filed by claimants, and ordered the said surveyor general to make a new survey, and the said United States surveyor general having made a resurvey of said rancho and lands, which was approved by him on the eighth day of April, A. D. 1864; and the said surveyor general having returned said last-mentioned survey to this court, and the district attorney of the United States having on the 7th day of
104 June, 1864, filed exceptions to the last-mentioned survey, and the same having been argued by said district attorney and by Hartman & Patterson, and the court being duly advised thereon, and it appearing to the court that said last-mentioned survey is in accordance with the grant, diseño, and final decree of confirmation, it is ordered, adjudged, and decreed that the survey of the Rancho Santa Paula y Saticoy, approved by E. F. Beale, U. S. surveyor general for California, on the 8th day of April, A. D. 1884, a plat whereof was filed in this court on the 6th day of June, 1864, be, and the same hereby is, in all things affirmed and approved and adjudged to be a proper and correct survey of the said rancho. This decree and decision being made by the court *pro forma* for the purpose of expediting the final decision of the matter in contro-
105 versy before the appellate court, and the court hereby allows the United States to appeal herefrom.

Signed in open court & ordered entered.

FLETCHER M. HAIGHT,
Dist. Judge of U. S. for Southern District of California.

Endorsed: Filed Aug't 11, 1864. John O. Wheeler, cl'k.

106 *Clerk's Certificate.*

CLERK'S OFFICE, U. S. DISTRICT COURT,
DISTRICT OF CALIFORNIA,
City and County of San Francisco, } *ss:*

I, Southard Hoffman, clerk of the district court of the United States for the district of California, do hereby certify the foregoing to be full, true, and correct copies of "Order to Return Survey," "Exceptions to Survey," "Amended Objections to Survey," "Opinion," "Decree Rejecting Survey," "Petition to File Bill of Revivor," "Order Allowing Claimants to File Bill of Revivor," "Letter to Survey[or] General from his Deputy," "Exceptions to Resurvey," and "Decree *pro forma*, Approving Survey" in the case entitled The United States of America *vs.* John P. Davidson *et al.* (Santa Paula y Saticoy), No. 328, land case for southern district of California, now remaining on file and of record in my office.

107 Attest my hand and the seal of said district court, this 16th day of April, 1883.

[SEAL.] SOUTHARD HOFFMAN,
Clerk U. S. District Court, District of California.

(Here follow diagrams, marked pp. 108, 109.)

110 *Stipulation that Certain Papers, &c., be made Part of the Transcript on Appeal.*

In the Circuit Court of the United States, Ninth Circuit, District of California.

R. STEINBACH *et al.*, Plaintiffs, *vs.* A. P. MOORE *et al.*, Defendants.

It is stipulated and agreed that the transcript of the proceedings and evidence had and taken at the trial of said cause by J. F. Gawthorne, the stenographic reporter who reported said trial, together with all the papers, documents, and maps offered in evidence on said trial, as appears from said transcript of proceedings, may be filed *nunc pro tunc*, as of the date of said trial, and transcribed into the record an appeal in this case.

Dated August 23, 1884.

WM. LEVISTON, *Sol'r & Counsel for P'l'ff.*
FLOURNOY, MHOON & FLOURNOY,
Solicitors for Defend'ts.

It is so ordered.
(Signed) SAWYER, *Judge.*

110½ Endorsed: Filed August 23, 1884. L. S. B. Sawyer, clerk.

111 *Reporter's Notes.*

In the Circuit Court of the United States, Ninth Circuit, of and for the State of California.

Present: Hon. Lorenzo Sawyer, judge.

RUDOLPH STEINBACH and HORACE W. CARPENTIER
vs.
ALEXANDER P. MORE *et al.*

Counsel appearing for plaintiff-, B. S. Brooks, Esq.; for defendant-, Flournoy, Esq., Mhoon, Esq., Flournoy, Esq.

San Francisco, Friday, March 16, 1883.

Reported by—

J. F. GAWTHORNE,
444 *California St.*

112 This cause coming on for hearing before the court, sitting without a jury, the following proceedings were had:

Counsel for plaintiff offered and read in evidence the following stipulation, to wit:

Stipulation Relating to Evidence to be used on the Hearing.

U. S. Circuit Court, 9th Circuit. In Equity.

RUDOLPH STEINBACH & HORACE W. CARPENTIER
vs.
A. P. MORE *et al.*

It is stipulated that for the purposes of this cause, and in place of the testimony of witnesses, &c., and as evidence to be used at the hearing, that it is admitted:

1. That the plaintiff, Rudolph Steinbach, is a resident of San Francisco, and an alien and a subject of the Empire of Germany, and that the plaintiff, Horace W. Carpentier, is a citizen of the State of New York, and a resident thereof.

2. It is stipulated that the plaintiff- may, at the hearing,
113 introduce and read in evidence the patent of the United States granted to Manuel A. Rodriguez de Poli, on the 24th day of August, A. D. 1874, and it is admitted that whatever title was acquired by the said De Poli under and by virtue of the said letters patent has passed by proper mesne conveyances to the said plaintiffs.

3. That plaintiffs may, if so advised, offer and read in evidence at the hearing the patent of the United States granted for the place named Santa Paula y Saticoy, upon the final survey and confirmation in the case No. 550, before the board of United States land commissioners, John P. Davidson *et al.*, claimants, and any and all of the files and records of said case, whether filed or entered in the said board, the U. S. district courts, or the U. S. circuit court, without objection, except as to the relevancy and competency, but not subject to any objection as to form or mode of proof.

114 It is stipulated that the land claimed by the plaintiff- is within the patent of the United States made to Manuel A. R. de Poli on the 24th day of August, 1874.

December 1st, 1882.

B. S. BROOKS,
Solicitor for Complainant.
FLOURNOY, MHOON & FLOURNOY,
Solicitors for Defendants.

Counsel for plaintiff- next offers in evidence the patent of the United States to Manuel A. Rodriquez de Poli.

Defendants' counsel objects, on the ground that it is irrelevant and incompetent, because it shows on its face that it was issued under section 15 of the act of 1851, and in it it declares that it shall not affect the interest of third parties, and the patented clause recites that it is taken with that condition.

Admitted subject to defendants' objection.

115 D. L. A. F. DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *Feb'y 3d*, 1875.

I, S. S. Burdett, Commissioner of the General Land Office, do hereby certify that the annexed on pages one to fifteen, inclusive, is a true and literal exemplification of a record of the patent for the Ex-Mission of San Buenaventura in California, as the same appears upon the records of this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] S. S. BURDETT,
Commissioner of General Land Office.

Patent of the United States to Manuel Antonio Rodrigues de Poli.

116 The United States of America to all to whom these presents shall come, Greeting:

Whereas it appears from a duly authenticated transcript filed in the General Land Office of the United States that pursuant to the provisions of the act of Congress approved the third day of March, A. D. one thousand eight hundred and fifty, *are* entitled "An act to ascertain and settle the private land claims in the State of California," Manuel Antonio Rodigues de Poli filed his petition on the eleventh day of November, A. D. 1852, with the commissioners to ascertain and settle the private land claims in the State of California, in which petition the said petitioner claimed the confirmation of his title to a tract of land of about twelve square leagues in extent, known as the Mission of San Buenaventura, said claim being founded upon a sale made on the 8th day of June, A. D. 1846, to José
117 Arnaz by Pio Pico, then Constitutional Governor of the Department of the Californias;

And whereas the board of land commissioners aforesaid, on the

fifteenth day of May, A. D. 1855, rendered a decree of confirmation in favor of Manuel Antonio Rodrigues de Poli, which said decree or decision having been taken on appeal to the district court of the United States for the southern district of the State of California, the said district court, on the first day of April, A. D. 1861, in the cause entitled "The United States *vs.* Manuel Antonio Rodrigues de Poli," made the following decree, to wit: "This cause came on to be heard on appeal from the decision of the United States board of land commissioners to ascertain and settle private land claims in California on a transcript and proceedings of said board, and the papers and evidence upon which said decision was made, and the further evidence adduced, and counsel for the respective parties having
118 been heard, it is ordered, adjudged, and decreed that the decision of the said board be affirmed.

"The land of which confirmation is made is situated in the county of Santa Barbara, and known as the Mission of San Buena Ventura, and which were known as belonging to the mission including the Laguna Buenemo el Pala Alto los de Seunbias de Santa Paula, la Cañada de la Mission, and all those lands which, at the date of the grant in this case, had not been granted by the Mexican Government, and were then recognized as lands of the mission establishment, excepting the orchards, vineyards, churches, and buildings belonging to the said mission at the date of the grant, to the extent of eleven leagues within said boundaries, and no more.

"And thereafter, appeal having been taken to the Supreme Court of the United States, the said court did, on the first Monday of
119 December, A. D. 1868, issue its mandate to the district court of the United States for the district of California, whereby it appears that the said Supreme Court of the United States affirmed the aforesaid decree, dated on the first day of April, 1861, of the United States district court for the southern district of California, which said mandate having been filed on the first day of June, A. D. 1869, in the said district court of the United States for the State of California, the said district court ordered, adjudged, and decreed that a certified copy of said final decree of April first, one thousand eight hundred and sixty-one, be furnished to the surveyor general of the United States for the State of California;" whereupon the proceedings of court upon title became final.

And whereas under the 13th section of said act of March 3d, 1851, and the supplemental legislation, and in accordance with the proceedings had pursuant to said act and supplemental legis-
120 lation, there has been deposited in the General Land Office of the United States a return and plat of survey of the said claim confirmed as aforesaid, authenticated by the signature of the United States surveyor general for the State of California, which descriptive notes and plat of survey are in the words and figures as follows, to wit:

"Descriptive notes of the Rancho Ex-Mission of San Buena Ventura, finally confirmed to Manuel Antonio Rodriguez de Poli, compiled according to the decision of the Honorable Secretary of the Interior of June 18, 1874, from approved field-notes of surveys on

file in the U. S. sur. general's office, California.—Beginning at a post in a mound of rocks marked 'O No. 1,' the same being corner No. 1 of the official survey of the Rancho Ojai, on the east boundary of the Rancho Santa Ana, at the western point of the Cuchillo de Azufre, from which a sycamore tree 5 feet in diameter bears
121 south thirty-one degrees west sixty-seven links distant, and a live-oak tree thirty-six inches in diameter bears south thirty-six degrees east one hundred and twenty-two links distant.

Thence with the true meridian, the variation of the magnetic needle being from fourteen degrees and ten minutes east to fourteen degrees and thirty minutes east, along southern boundary of Rancho Ojai north seventy-five degrees and forty-five minutes east, at twenty links, crosses road course north and south at three chains ascends steep hill at ten chains top of hill. Thence along the summit of the Cuchillo de Azufre at two hundred and sixty-two chains and sixty links bears boundary of Rancho Ojai and four hundred and fifty-five chains and twenty-one links to a live oak tree ten inches in diameter, standing on a spur on the south slope of the Cuchillo de Azufre, marked S. B. M. * * * station.

122 Thence along the broken cliffs and spurs on the south slope of Cuchillo de Azufre south eighty-two degrees and thirty minutes east ninety-six chains and thirty-two links to a post marked 'S. B. M. XXIX,' in mound of stone on the point of a spur running south from the Cuchillo de Azufre station.

Thence north sixty-eight degrees east twenty-four chains and eighty-three links to a post in mound of stone 'S. B. M.' —, on the point of a spur running south from the Cuchillo de Azufre station.

Thence north seventy-four degrees east one hundred and fifty-seven chains and sixty-six links to a post, marked 'S. B. M. XXVIII,' on the point of a spur running south from the Cuchillo de Azufre station.

Thence north eighty-three degrees and thirty minutes east one hundred and seventeen chains and twenty-one links to a
123 marked forked live oak tree thirty-six inches in diameter, marked 'S. B. M. XXVII,' standing on the point of a spur running south from Cuchillo de Azufre station. Thence north sixty-two degrees east seventy-one chains and twenty-seven links to a live oak tree standing on the east point of the summit of the Cuchillo de Azufre, marked in a former survey of the Rancho Ojai O 15 station. Thence descending the eastern point of the Cuchillo north sixty-seven degrees and thirty minutes east thirty-two chains to a live oak tree fourteen inches in diameter standing on the high bluff bank on the east side of the Arroyo Mupee, marked 'O 14,' corner No. 6 of the final survey of the Rancho Ojai station.

"Thence following the general course of Mupu creek south sixteen degrees and thirty minutes east two hundred and twenty-four chains and thirty-eight links to a sycamore tree standing on
124 the right of the arroyo and cañada of Mupee, marked 'S. P. 11' of the Rancho Santa Paula y Saticoy; said tree is one of a cluster of three trees, sycamores; it is twenty-four inches in diameter, and marked S. B. Ex-M. station.

"Thence along the north boundary of the official survey of the Rancho Santa Paula y Saticoy south fourteen degrees and thirty-six minutes west, at five chains leaves the Cañada de Mupee and ascend hill; at thirty-one chains summit of ridge, course eastward, west and descend; at forty-three chains crosses cañon one hundred links wide, course west; at fifty-five chains summit of ridge, course northwest; at sixty-four chains enters small cañon; at sixty-nine chains leaves small cañon.

Thence along side hill on east side of same at eighty-three chains cañon bears southwest, at eighty-five chains ascends ridge,
125 ninety chains summit of same course east and west, and descends at one hundred chains enters large cañon; thence down the same at one hundred and thirty chains crosses road, course southeast, and leave cañon, bearing a little east of south, and ascend hill, at one hundred and thirty-nine chains summit of spur, course southeast, at one hundred and sixty chains summit of main spur, course southeast, and descend gradual slope of hill, at one hundred and ninety chains enters the Santa Clara valley, and two hundred and eight chains and fifty-one links to a post marked Fu. Cor. No. 10 of the Rancho Santa Paula y Saticoy by the side of a fence on the east side of Wooley's field, course north thirty-six degrees, west and south thirty-six degrees east, from which Wooley's house bears north thirty-seven degrees and thirty minutes west, station.

Thence in the Santa Clara valley in Wooley's field south
126 fifty-four degrees west at thirty-eight chains and twenty-five links to a post on line set for a subdivision line of the Rancho Santa Paula y Saticoy, from which Wooley's house bears north thirty-eight degrees and fifteen minutes east, and Thorn's house bears north seventy-three degrees and forty-five minutes west, fence, course south, thirty-six degrees east and north, thirty-six degrees west, and leaves Wooley's field at fifty-four chains and eighty links east end of fence on line; thence along same at seventy-seven chains and fifty links at stake on line, one of the subdivision corners of the Rancho Santo Paula y Saticoy, from which Thorn's house bears north five degrees east, and O'Harron's house bears north seventy-eight degrees and forty-five minutes west, at eighty-five chains gulch, one hundred and fifty links wide, course south, twenty degrees east, at one hundred and sixteen chains and twenty-five links
127 stake on line, one of the subdivision corners of the Rancho Santa Paula y Saticoy, from which O'Harron's house bears north thirty five degrees west, at one hundred and seventeen chains and fifty links, crosses gulch, course *course* southeast, fifty links wide at one hundred and fifty-five chains stake at the coruer of fence, from which a small house at the foot of the hills bears north sixty degrees west, at one hundred and eighty-six chains small house at the foot of the hills bears north twenty-seven degrees and forty-five minutes west, and another small house bears north about five chains distant, at one hundred and ninety-three chains and seventy-five links stake, one of the subdivision corners of the Rancho Santa Paula y Saticoy, from which Colwell's house bears north seventy-

two degrees and fifteen minutes west, and a school-house
128 bears north fifty-four degrees and fifteen minutes west about ten chains distant, at two hundred and thirty-five chains and sixty links, Colwell's house bears north forty-three degrees, west at two hundred and forty-six chains, the east bank of a large dry arroyo course southeast, at two hundred and forty-eight chains crosses arroyo, at two hundred and seventy-one chains and twenty-five links a post on line marked 'S. 9 L. 16' and 'S. x 15;' at two hundred and eighty-nine chains, Crane's house at the foot hills, bears north forty-nine degrees and fifteen minutes west, at three hundred and seventeen chains and fifth links end of fence, at three hundred and nineteen chains, Crane's house, bears north three degrees and fifteen minutes west, at three hundred and forty chains, large, dry arroyo, one hundred links wide, course southeast, and three
129 hundred and forty-two chains to a large redwood post on west bank of the arroyo marked 'S. P. 9,' for a corner No. 9 of the Rancho Santa Paula y Saticoy station.

Thence south fifty-one degrees and thirty minutes, at fifteen chains, commence a gradual ascent over rolling fields sloping southeast, at forty-three chains and forty links, crosses gulch course, south seventy degrees, east at forty-seven chains and fifty links, Wiley's house bears north fifty-two degrees and thirty minutes, west about five chains distant, at one hundred and nine chains, a post marked 'S. P. 8' and 'S. B. Ex-M. station.'

"Thence south sixty degrees and thirty minutes west one hundred and fifteen chains and ninety-four links to a redwood post, corner No. 7 of the Rancho Santa Paula y Saticoy, from which Albert's house bears north seventy-five degrees and forty-five minutes, west station.

"Thence south sixty-five degrees and forty-five minutes, west
130 at five chains and seventy-five links crosses gulch course, southeast at fourteen chains and fifty links, Albert's house bears north thirty degrees and thirty minutes, west at thirty-five chains, post in mound marked 'S. P. 6,' corner No. 6 of the Rancho Santa Paula y Saticoy station.

"Thence south eighty-three degrees west at twenty-five chains crosses gulch and large cañon course southeast, and forty-five chains and forty links to a post, corner No. 5 of the Rancho Santa Paula y Saticoy station.

"Thence along hillside south eighty-one degrees west at fifteen chains crosses dry gulch course southeast at fifty-five chains descends brushy hill at sixty-three chains and fifty links enters large cañon at sixty-three chains and sixty links crosses road course, south at sixty-six chains crosses large ravine course, southwest at
131 sixty-nine chains intersect offset range line in range twenty-two west, township two, north fifty chains and sixty-four links north of the *of the* corner to sections five, six, seven, and eight, at eighty-one chains deep gulch, course south; at ninety-six chains and eighty-eight links, a post, corner No. 4 of the Rancho Santa Paula y Saticoy station.

"Thence south eighty-one degrees and thirty minutes west, at

thirteen chains and fifty links, mouth of cañon five chains wide, course south; at twenty-seven chains a post in mound marked No. 2 and No. 3, a subdivision stake of the Rancho Santa Paula y Saticoy; at thirty-five chains crosses canon fifty links wide, course south; at thirty-seven chains and fifty links crosses ravine, course southeast, fifty links wide; at eighty chains and fifty links crosses deep ravine, course south seventeen degrees west; at ninety-nine chains crosses ravine,
132 course north and southwest, and one hundred and one chains and seventy-six links, a post, corner No. 3 of the Rancho Santa Paula y Saticoy station.

"Thence south seventy-three degrees and thirty minutes west one hundred and two chains and ninety-six links to a post in a mound of rocks on the north side of the old Conijo road, and on the east side of the second barranca, east of the Mission of the San Buena Ventura; this post is corner No. 2 of the Rancho Santa Paula y Saticoy, and corner No. 13 of the Rancho San Miguel station.

Thence along the line of the Rancho San Miguel, along the old Conijo road, north seventy-four degrees west fifty chains to station No. 14 of the survey of the Rancho San Miguel station.

Thence north eighty-seven degrees and thirty minutes west five chains and fifty-four links to a post in a rock mound, corner No. 3 of the Rancho San Miguel, on the north side of the road
133 on the east bank of the first large barranca east of the San Buena ventura station.

Thence along the old Canijo road and following the line of the Rancho San Miguel down with the meanders south forty-nine degrees west two chains to station.

Thence south twenty-seven degrees west twenty-three chains to station.

Thence south forty-eight degrees and thirty minutes west seven hains to station.

Thence south forty-four degrees west eleven chains and forty links to a redwood post in a mound of rocks, corner No. 4 of the Rancho San Miguel, in the mouth of the Arroyo, near the sea shore station.

Thence leaving the line of the Rancho San Miguel and following the meanders of the sea shore along on sand beach under a steep bluff bank north sixty-eight degrees and forty-five minutes
134 west thirty-nine chains and fifty-one links to station.

Thence south sixty-eight degrees and forty-five minutes west sixteen chains and fifty-five links, end of bluff bank station.

Thence along low sand hills south seventy-five degrees west thirty chains and seventy links to station.

Thence north eighty-six degrees and thirty minutes west nineteen chains and twenty-three links to station.

Thence north sixty-two degrees and forty-five minutes west at ten chains, outlet of the mouth of the San Buena Ventura river; at twenty-three chains and sixty-eight links, set a post for station on a low sand hill on the sea shore.

Thence leaving the sea shore north sixteen degrees and thirty minutes east at four chains and thirty eight links a post in a mound

of rocks set for the southeast corner of the Rancho Cañada de
135 San Miguelito, thence following the line of said rancho up the San Buena Ventura river fifty-seven chains to station.

Thence north two degrees west twenty-two chains and twenty-five links to station.

Thence north three degrees and forty-five minutes east forty-one chains and sixty-six links to station.

Thence north thirty minutes west nine chains to station.

Thence north twenty-one degrees east eight chains and twenty links to station.

Thence north forty-one degrees and fifty minutes east twenty chains and thirty-four links to station.

Thence north forty degrees and thirty minutes east twenty-three chains and ninety-two links to station at crossing of the road to the Cañada del Diable.

Thence north twenty-five degrees and forty-five minutes east eight chains and ninety-eight links to station.

136 Thence north twenty-three degrees east thirty-three chains and sixty-four links to corner No. 8 of the Rancho Cañada Larga station.

Thence following the line of said rancho south sixty-six degrees east at two chains enters river-bed, at seven chains leaves same; course southwest, and seventeen chains to station in the center of road from San Buena Ventura Ojai Rancho, course north and south, from which a live-oak tree, sixteen inches in diameter, bears south seventy-five degrees and thirty minutes east seventy-four links distant.

Thence north fifty-six degrees east twenty-nine chains to a post in a rock mound, corner No. 10 of the Rancho Cañ-da Larga, from which a live-oak tree, eight inches in diameter, bears southwest thirty-three links distant.

Thence along foot hills with the line of the Cañada Larga north sixteen degrees east twenty-five chains and fifty links to a post in a mound of rocks in valley at foot of hills, corner No. 11 of the
137 Rancho Cañada Larga, from which a live-oak tree, ten inches in diameter, bears north thirty degrees east one hundred and thirty-one links, station.

Thence leaving the line of the Rancho Cañada Larga and over broken, rough, and barren hills unfit for cultivation north eighty-five degrees east three hundred and nine chains and twenty-eight links to an alder post in mound and pits on top of a small size ridge, station; from which a live-oak tree in Cañda de los Eucinos bears south eighty-four degrees and forty-five minutes west, distant ten chains and fifty links.

Thence over rough and broken hills north forty degrees and fifteen minutes east one hundred and thirty-three chains and sixty-eight links to a live-oak tree twenty inches in diameter, marked 'S. B. M. 23 station' on top of high rocky ridge.

Thence descending ridge and steep bluff north at five
138 chains, foot of the bluff, at twenty-seven chains and fifty links, rocky point at foot of descent; at thirty-nine chains and

forty-eight links to post in rock mound on right bank of brushy cañon, station, from which a toyou bush five inches in diameter on rocky point bears south one degree and fifteen minutes east, distant eleven chains and eight links.

Thence over very rough and broken hills on a line due east from the southeast corner of the Rancho Santa Ana west at one hundred and seventy-two chains and eighty links top of ridge, at two hundred chains and eighty links top of ridge, and two hundred and ten chains and eighty links to intersection of the southeastern boundary of the Rancho Cañ-da Larga y Verda station, in center of a dry barranca, from which an elder post in rock mound marked 'S. B. M. P.' bears south forty-seven degrees and thirty minutes west, distant fifty links.

139 Thence along boundary of last-named rancho north forty-seven degrees and thirty minutes east at seventy-six chains and ninety-six links crosses Cañda de Leon; at one hundred and eleven chains and ninety-six links crosses Cañada Seca, and one hundred and fifty-six chains and ninety-six links to post 'C. L. No. 4' in rock mound, station on south side and near top of mountain ridge.

Thence north thirty-one degrees west at thirty-seven chains crosses dry gulch, course west; at ninety-two chains crosses Cañada Larga, course southwest; thence ascending one hundred and twenty-two chains to a post in mound of rock near the top of mountain ridge marked 'C. L. No. 3,' corner No. 3 of the Rancho Cañada Larga station.

Thence descending with the line of said rancho south fifty-nine degrees and fifteen minutes west at twenty-three chains crosses Cañ-da Azufre, course south; at one hundred and three
140 chains crosses Cañ-da de los Coches, course south; at one hundred and eighty-two chains crosses Cañada de Aliso, course south; at two hundred and eighty-nine chains crosses Cañ-da Oji de Brea, course south; at three hundred and seventy-three chains to a post in a rock mound marked 'C. L. No. 2,' corner 'No. 2' of the Rancho Cañada Larga on the line of the Rancho Santa Ana station.

Thence along the east boundary of the last-named rancho north five degrees and thirty minutes east over rough, steep, broken hills on the east side of the valley of the San Buena Ventura river at one hundred and thirty chains enters valley, and one hundred and eighty-two chains to the point of beginning, containing forty-seven thousand eight hundred and nineteen acres and eighty-three one-hundredths of an acre, after excluding the area of the fol-
141 lowing four lots lying within said boundaries in San Buena Ventura:

1st lot, Mission buildings, the boundaries of which are as follows:
Beginning at the southwest corner thereof.
Thence N. 87° E. 7.70 chains to station.
Then N. 3° W. 3.84 " " station.
Thence S. 87° W. 7.70 " " station.
Thence S. 3° E. 3.84 to point [of] beginning.

2d lot, Mission orchard:

Beginning at the northeast corner thereof, from which the southwest corner of the Mission buildings bears N. 57° E., distant 2.30 lks.

Thence N. 79° W. 11 chs. 68 lks. to station.
Thence S. 11° W. 16 " 76 " " station.
Thence S. 79° E. 11 " 68 " " station.
Thence N. 11° E. 16 " 76 " " point of beginning.

3d lot, Mission vineyard:

Beginning at its southeast corner, from which the northeast corner of the Mission orchard bears S. 2¾° W., distant 42.88 chains.

Thence N. ¼° W. 11.80 chains to station.
Thence N. 30° W. 4.65 " " station.
Thence N. 73½° W. 4.82 " " station.
Thence south 17½ W. 15.05 chains to station.

142 Thence S. 76° E. 11.80 to point [of] beginning.

4th lot, finally confirmed to Fernande Tico:

Beginning at southwest corner of said lot.
Thence N. 10° E. x 17.00 chains to station.
Thence S. 80° E. 17.00 " " station.
Thence S. 10° W. 17.00 " " station.
Thence N. 80 W. 17.00 " " point of beginning.

Tract No. 2 of the lands of Ex-Mission San Buenaventura, comprising that part of Laguna Rancho (mentioned in the decision of the Honorable Secretary of the Interior of June [1]8th, 1874) excluded from the finally approved surveys of the three Ranchos Rio de Santa Clara Guadalaxia, and Caleguas:

Beginning at post 'R. C. 18 & 61' at foot of Lomia del Medio.

Thence along boundary of the Rancho Rio de Santa Clara south twenty-one degrees and thirty minutes west at fifty-four chains intersects line between townships two and one north, range
143 twenty-one west, eleven chains and thirty links east of corner to sections thirty-five, thirty-six, one, and two; thence through township one north at eighty-four chains and seven links corner of fractional sections one and two at one hundred and forty chains and forty-five links, corner of fractional sections two and eleven at two hundred and twenty-six chains and eighty-eight links intersects between sections eleven and fourteen twenty-seven chains and forty-five links east of corner to sections eleven, fourteen, and fifteen, and two hundred and eighty-seven chains and fifty-eight links to post R. C. 19 and 21 in mound of rocks station at foot of Sieneta de la Laguna.

Thence along boundary of Rancho Guadalaxa north forty-two degrees and thirty minutes east, and seventy-six chains and forty-four links fractional corner between sections eleven and fourteen at one hundred and eleven chains, and seventy links fractional
144 corner between sections eleven and twelve at one hundred and eighty-six chains and ten links corner to fractional sections one and twelve, and two hundred chains and sixty links to redwood post 'C. 3 & 28' station.

Thence along boundary of Rancho Calleguas north seventeen degrees west seventy-two chains and eighty-five links to quarter section, post 'C 2' on line between sections one and thirty-six of townships one and two, north range twenty-one, west station.

Thence north nine degrees and forty-five minutes west fifty chains and ninety-six links to point of beginning at corner common to Rancho Calleguas and Rancho Rio de Santa Clara, containing one thousand and three acres and eight one-hundredths of an acre, the aggregate area of the two tracts of the lands of the Ex-Mission San Buenaventura, being forty-eight thousand and eight hundred and twenty-two
145 acres and ninety-one one-hundredths of an acre (48,822.91), and designated on the plats of the public surveys as lot numbered forty, township one north, range twenty-one west; lot numbered forty-two, township two north, range twenty-one west; lot numbered thirty-nine, township three north, range twenty-one west; lot numbered thirty-eight, township four north, range twenty-one west; lot numbered forty, township two north, range twenty-two west; lot numbered thirty-nine, township three north, range twenty-two west; lot numbered thirty-nine, township four north, range twenty-two west; lot numbered forty-two, township two north, range twenty-three west; lots numbered forty, forty-one, and forty-four, township three north, range twenty-three west; and lot numbered thirty-eight, township four north, range twenty-three west, all of San Bernardino base and meridian.

146 In witness whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the [city] of San Francisco, this 5th day of August, A. D. 1874.

[L. S.] JAS. T. STRATTON,
U. S. Sur. General for California."

(Here follows diagram, marked page 147.)

148 Now know ye that the United States of America, in consideration of the premises, and pursuant to the provisions of the act of Congress aforesaid of the 3d day of March, A. D. 1851, and the legislation supplemental thereto, have given and granted, and by these presents do give and grant, unto Manuel Antonio Rodrigus de Poli, and to his heirs, the tract of land embraced and described in the foregoing survey, but with the stipulation that, by virtue of the fifteenth section of the said act neither the confirmation of the claim nor this patent shall effect the interests of third persons.

To have and to hold the said tract, with the appurtenances, unto the—Manuel Antonio Rodrigus de Poli, and to his heirs and assigns, forever, with the stipulation aforesaid.

In testimony whereof, I, Ulysses S. Grant, President of the United States, have caused these letters to de made patent, and the
149 seal of the General Land Office to be hereunto affixed.

Given under my hand, in the city of Washington, this twenty-fourth day of August, in the year of our Lord one thousand

eight hundred and seventy-four, and of the Independence of the United States the ninety-ninth.

[L. S.] By the President: U. S. GRANT,
By L. D. WILLIAMSON,
Secretary.

L. K. LIPPINCOTT,
Recorder of the General Land Office.

Endorsed: Recorded at the request of Ferdinand Vassault, August 5th, A. D. 1875, at 1 o'clock p. m., in Book 1 of Patents, pp. 55 *et seq.*, records of Ventura county, State of California. John T. Stow, recorder. In the circuit court of the United States, dist. of Cal'a. Filed August 23d, 1884, as of March 16th, 1883, by order of judge. L. S. B. Sawyer, clerk.

150 Plaintiffs' counsel next offers in evidence the patent of the Rancho Santa Paula y Saticoy.

Defendants' counsel objects, on the ground that it does not cover the land in question.

Admitted, subject to defendants' objection.

(Here follows diagram, marked p. 151.)

152 *Patent of the Rancho Santa Paula y Saticoy.*

The United States of America to all to whom these presents shall come, Greeting

Whereas it appears from a duly authenticated transcript filed in the General Land Office of the United States that pursuant to the provisons of the act of Congress, approved the third day of March, one thousand eight hundred and fifty-one, entitled "An act to ascertain and settle the private land claims of the State of California," John P. Davidson, James Blair, Stephen M. Tibbetts, Joseph B. Crockett, and Edward D. Baker, as claimants, filed their petition on the 3d day of February, 1853, with the commissioners, to ascertain and settle the private land claims in the State of California, sitting as a board, in the city of San Francisco, in which petition they claimed the confirmation of their title to a tract of land containing four square leagues, more or less, situated in the county of
153 Santa Barbara and State aforesaid, and known by the name of Santa Paula y Saticoy, said claim being founded on two Mexican grants to Manuel Jimeno Carsonii, the first made on the 28th day of April, 1840, by Juan B. Alvarado, then Constitutional Governor of the Department of the Californias, and the second on the 1st day of April, 1843, by Manual Micheltorena, then Governor of the Department of California; and whereas the board of land commissioners aforesaid, on the 22d day of May, 1855, rendered a decree of confirmation in favor of the claimants, which decree or decision having been taken by appeal to the district court of the United States for the southern district of California, and the Attorney General of the United States having given notice that it was "not the

intention of the United States to prosecute further the appeal
154 in this cause," the said court, at its December term, 1857, in the cause entitled "John P. Davidson *et al. vs.* The United States," ordered that the appeal be dismissed, whereby the proceedings of court upon title became final;

And whereas it further appears that the following proceedings in the matter of survey and location were had on the 31st day of October, 1864, in the circuit court of the United States for the southern district of California, to wit, The United States *vs.* John P. Davidson *et al.*: The appeal in this case from the decree of the district —— of the United States for the southern district of California entered on the eleventh day of August, 1864, approving and affirming the survey of the land confirmed to the claimant in this case, made under directions of the surveyor general of California, and approved by said surveyor general on the eighth day of April, A. D. 1864,
coming on to be heard upon the transcript of the record
155 and proceedings of the said district court transmitted to this court, and counsel for the United States and for the claimant having been heard and due deliberation, that it is ordered, adjudged, and decreed that the said decree of the said district court, entered on the eleventh day of August, 1864, be, and the same is hereby, reversed, and the survey approved by said decree be, and the same is hereby, set aside and annulled. And it is further ordered, adjudged, and decreed that the official survey of the lands confirmed to the claimants made by I. E. Terrell, U. S. deputy surveyor, under the instructions of the United States surveyor general, in December, 1860, and approved by the United States surveyor general on the 25th day of February, 1861, a copy of which is in the transcript on
appeal herein, be, and the same is hereby, approved and con-
156 firmed as the correct and true location of the lands confirmed to the claimants "by the decree of confirmation herein," whereby the proceedings of court upon survey and location also became final;

And whereas under the 13th section of said act of 3d March, 1851, and the supplemental legislation, and in accordance with the proceedings had pursuant to said act and supplemental legislation, there has been deposited in the General Land Office of the United States a return, with a certificate and plat of the survey of the said claim confirmed as aforesaid, authenticated by the signature of the United States surveyor general of the State of California, which certificate and plat are in the words and figures as follows, to wit:

"U. S. SURVEYOR GENERAL'S OFFICE,
"SAN FRANCISCO, CAL., *28th October*, 1870.

"Under and by virtue of the provisions of the 13th sec-
157 tion of the act of Congress of the third of March, 1851, entitled 'An act to ascertain and settle the private land claims in the State of California,' and of the 12th section of the act of Congress approved on the 31st of August, 1852, entitled 'An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1853, and for

other purposes,' and whereas the U. S. district court for the southern district of California rendered a decision whereby it 'recognized and confirmed the title and claim of John P. Davidson *et al.* to the tract of land designated as Santa Paula y Saticoy, in Santa Barbara county, by dismissing the appeal taken from the decision of the U. S. board of land commissioners,' as appears from the certified copy of the final decree of the said district court, a copy of which is hereto annexed, the said tract of land was surveyed in conformity to
158 the grant thereof, and the said decision, and I hereby certify that the accompanying map is a true and accurate plat of the said tract of land, as appears by the field-notes of the survey thereof made by I. E. Terrell, deputy surveyor, under the directions of this office, which, having been examined and approved, remain of record therein. The boundaries of said tract, according to said said field-notes, are described as follows: Beginning at a point in corner of Santa Clara river, at the southeasterly corner of the Rancho San Miguel, at crossing of old Conijo road, thence, according to the true meridian, the variation of the magnetic needle being fourteen degrees and five minutes east, along north boundary of said ranch north forty-five degrees and fifteen minutes west five chains to a large redwood post marked S. M. No. 2, and S. P. 1, station in mound on right bank of Santa Clara river, and side of road.
159 Thence following the meanders of the old Canijo road and the north boundary of Rancho San Miguel, north fifty-eight degrees and fifteen minutes west one hundred and twenty-three chains and fifty links to station. Thence north fifty-nine degrees and fifteen minutes west, at twenty chains Raymond Olivo's house bears south fifty degrees and fifteen minutes west sixty-three chains to station, from which the same house bears south twenty-nine degrees and thirty minutes west. Thence north seventy-eight degrees and fifteen minutes west, at twenty-eight chains and eighty-five links to stake at point of intersection with line between ranges twenty-two and twenty-three west, township two north, one chain and forty-six links south of corner, to sections seven, twelve, thirteen, and eighteen; at forty-eight chains crosses gulch fifty
160 links wide, course south, west fifty-five chains, to station. Thence north seventy-two chains and thirty minutes west twenty-four chains, to station. Thence north fifty-one degrees west eighty chains, to station. Thence north sixty-one degrees and thirty minutes west, at twenty-three chains to stake at point of intersection with offset of township line in township two north, range twenty-three west; at nineteen chains and seventy-five links east of corner of section- two, three, ten, and eleven twenty-nine chains to stake marked S. P. 2, in mound of rocks, station near gulch. Thence leaving boundary of Rancho San Miguel and along gulch north seventy-seven degrees east eighty chains and fifty-three links, to foot of hills, and stake S. P. 3, near gulch, station. Thence along of hills north eighty-one degrees east thirty minutes east one hundred and one chains and seventy-six links to stake marked
161 S. P. 4, station. Thence north eighty-one degrees east, at forty-five chains and sixty links intersects offset of township

line in township two north, range twenty-two west, forty-two chains north of corner to sections five, six, seven, and eight, ninety-six chains and eighty-eight links, to stake marked S. P. 5, station. Thence north eighty-three degrees east, at forty chains crosses deep gulch one chain wide, bears nearly south forty-five chains and forty links to stake marked 'S. P. 6,' station. Thence north sixty-five degrees and forty-five minutes east thirty-five chains to stake at point of intersection with line between townships two and three north, range twenty-two west, fifteen chains and eighty-four links west of corner to section- three, four, thirty-three, and thirty-four, one hundred and fifteen chains and ninety-four links to stake marked 'S. P. 8' station. Thence north fifty-one degrees
162 and thirty minutes east one hundred and nine chains to an oak tree eighteen inches in diameter, marked 'S. P. 9,' at mouth of large cañon, bearing northwest station, from which ranch house bears south fifty degrees and forty-five minutes east one hundred chains distant; thence north fifty-four degrees east at thirty-eight chains 'mouth of cañon' bears nearly north at eighty chains, crosses lane at one hundred and six chains and forty links to stake at point of intersection, with line between ranges twenty-one and twenty-two west, township three north, nineteen chains and twenty-five links north of corner to sections nineteen, twenty-four, twenty-five, and thirty, three hundred and forty-two chains to stake marked 'S. P. 10,' at foot of hill, station from which old adobe house bears north eighty-one degrees and fifteen minutes east; thence
163 ascending north fourteen degrees and thirty-six minutes east at thirty chains to top of ridge bears west of north at seventy-three chains cañon one chain wide bears southeast; at one hundred and fifty chains to top of ridge bears northwest old adobe house, bears south twenty-two degrees east; thence descending into Mupee cañon, at one hundred and ninety-three chains enters cañon of Murpee creek bears northwest and southeast two hundred and eight chains and fifty-one links to sycamore tree marked 'S. P. 11,' on right bank Mupee creek station; thence following the general course of Muper creek from thirty to fifty links wide, down cañon along boundary of Rancho 'Sespe' south thirty-five degrees and thirty minutes east, one hundred and thirty-three chains and thirty-eight links to alder tree four inches in diameter, on the left bank of creek and
164 mouth of cañon marked 'S. P. 12' station; thence south twenty-four degrees east ninety-six chains to an oak tree twelve chains in diameter marked S. P. 13, on right bank of mouth of Mupee creek station; thence south forty-two degrees and fifteen minutes east, at thirty links enters bed of Santa Clara river, course southwest at four chains, intersects offset of township line in township three north of range twenty-one west thirty-nine chains and fifty links east of corner to sections ten, eleven, fourteen, and fifteen; at four chains and fifty links crosses river and ascends; thence along western slope abrupt hill, called Lomas de Santa Paula, four hundred and ninety chains to stake marked S. P. 14, station at the most southern point of above-named hills, known as the 'Puenta del Loma;' thence through sandy river bottom along the line of

the 'Rancho Santa Clara del Norte' south seventy degrees and
165 forty-five minutes west at thirty-two chains and fifteen links to rock mound at point of intersection with line between ranges twenty-one and twenty-two west, township two north, twenty-four chains north of corner to sections one, six, seven, and twelve, at one hundred and sixteen chains enters Santa Clara river; thence along same at one hundred and sixty-three chains and twenty-four links to sycamore tree, thirty inches in diameter, marked S. P. 15, station from which old adobe house bears north, thirty-one degrees and forty-five minutes east, distant about fifty chains; thence south thirty-nine degrees and forty-five minutes west, at thirty links enters Santa Clara river at five chains to center of same; thence down center of river forty-six chains and ninety links to station;
166 thence south thirty-five degrees, west thirty-three chains and ninety links to station; thence south thirty-six degrees and forty-five minutes west at twenty-six chains to a small island, about five chains wide, forty-seven chains and seventy-eight links to station at south point of island; thence south fifty-seven degrees and thirty minutes west ninety chains and two links to station; thence south fifty-two degrees west twenty-four chains and ninety-eight links to point of beginning, containing seventeen thousand and seven hundred and seventy-three acres and thirty-three one-hundredths of an acre, and being designated upon the plats of the public surveys as lot numbered thirty-seven, in township two north of range twenty-one west; lot numbered forty-one, in township two, north of range twenty-two west; lot numbered forty-one, in township two, north of range twenty-three west; lot num-
167 bered thirty-seven, in township three, north of range twenty-one west; lot numbered thirty-seven, in township three, north of range twenty-two west, and lot numbered thirty-seven, in township four, north of range twenty-one west, of the San Bernardino base and meridian.

In witness whereof, I have hereunto signed my name officially and caused my seal of office to be affixed at the city of San Francisco, this twenty-fifth day of October, A. D. eighteen hundred and seventy.

[L. S.] SHERMAN DAY,
U. S. Surveyor General for California."

And whereas there has been deposited in the General Land Office of the United States a certificate, dated the 14th day of October, 1870, from the clerk of the circuit court of the United States for the ninth circuit, district of California, showing that in the
168 cause entitled The United States *v.* J. P. Davidson *et al.*, "since the filing and entering of the 'aforesaid' decree of the circuit court of the United States for the southern district of California," no other or further proceedings have been had in said cause. Now know ye, that the United States of America, in consideration of the premises and pursuant to the provision of the act of Congress aforesaid of 3d March, 1851, and the legislation supplemental thereto, have given and granted, and by these presents do give and grant,

unto the said John P. Davidson *et al.*, and to their heirs, the tract of land embraced and described in the foregoing survey, but with the stipulation that in virtue of the 15th section of the said act the confirmation of this said claim and this patent shall not affect the interests of third persons. To have and to hold the said tract,
168½ with the appurtenances, unto the said John P. Davidson *et al.*, and to their heirs and assigns forever, with the stipulation aforesaid.

In testimony whereof, I, Ulysses S. Grant, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, this twenty-second day of April, in the year of our Lord one thousand eight hundred and seventy-two, and of the Independence of the United States the ninety-sixth.

By the President: U. S. GRANT,
[L. S.] By J. PARRISH, *Secretary.*
C. B. BOYNTON,
Recorder of the General Land Office.

Recorded vol. 8, pp. 27 to 34, inclusive. Recorded at the request of E. B. Higgins, September 2d, A. D. 1872, at 5 minutes past 3 o'clock p. m.

169 F. A. THOMPSON,
County Recorder,
By F. N. GUTIERREZ, *Deputy.*

STATE OF CALIFORNIA, }
County of Santa Barbara, } *ss:*

I, A. B. Williams, county clerk and *ex officio* county recorder, in and for the county of Santa Barbara, do hereby certify that I have compared the foregoing copy of patents of Rancho Santa Paula y Saticoy with map annexed, and of the endorsements thereupon, with the original records of the same remaining in this office, and that the same are correct transcripts therefrom and of the whole of said original records.

Witness my hand and official seal, this 4th day of December, A. D. 1882.

[SEAL.] A. B. WILLIAMS,
County Recorder,
By HARRY GOODCHILD, *Deputy.*

Endorsed: Filed August 23, 1884, as of March 16, 1883, by order of judge. L. S. B. Sawyer, clerk.

170 Plaintiffs' counsel also offers plat of lands of the Ex-Mission Buenaventura, finally confirmed to Manuel A. Rodriguez de Poli, surveyed in accordance with the final decree of the United States district court, October 13th, 1864, and located from the records in the office of the surveyor general by Geo. H. Thompson, deputy surveyor, and endorsed thereon "Field-notes of above

tracts having been examined and found correct are hereby approved. United States surveyor general's office, California, February 21st, 1865."

L. UPSON,
U. S. Surveyor General, California.

Admitted and marked Ex. A.

(Here follows diagram, marked p. 171.)

172 Defendants' counsel offers and reads in evidence the following stipulation, to wit:

Stipulation Relating to Evidence.

(Signed in duplicate.)

U. S. Circuit Court, District of California.

R. STEINBACH *et al. vs.* A. P. MORE *et al.*

It is stipulated that for the purposes of this cause and in lieu of the testimony of witnesses, and as evidence to be used at the hearing—

1. That either party may at the hearing of the cause and without going before an examiner, put in whatever documentary evidence he may desire subject to any objection of relevancy and competency, but not subject to any objections as to the form or mode of proof.

2. That the defendants may read in evidence at the hearing, subject to any legal objection the plaintiff may urge, except as to the form of the evidence so offered, any or all as defendants may
173 be advised of the transcript in case No. 550 of The Board of U. S. Land Commissioners, Dadvidson *et al. vs.* U. S., and the records of U. S. district courts in the same case. And it is admitted that the description in the answer corresponds with the description in the record of judicial possession set forth in said transcript, and that the survey, a traced copy of the plot of which is annexed, shows the boundaries of said judicial possession.

But it is so understood that the plaintiffs on their part deny the validity of defendants claim of title to said premises and that defendants, on their part, deny the validity of plaintiffs' claim of title to said premises.

It is stipulated that the land claimed by the defendants is within the patent of the United States made to Manuel A. R. de Poli, on the 24th day of August, 1874, and also the said land is within
174 the judicial survey of November, 1847, and is the land in controversy between the plaintiff and defendant.

It is further admitted that there was a survey and patent purporting to be the final survey and patent by U. S. of the Rancho Santa Paulay Saticoy, which survey and patent does not include the premises in controversy.

And further, that J. P. Davidson, S. M. Tibbetts, J. B. Crockett, E. D. Baker, and Jas. Blair did succeed, by proper conveyance dated October 11th, 1852, to whatever right and title Manuel Jimeno had

theretofore under and by virtue of the grant and judicial possession in the demanded premises. And that defendants thereafter succeeded by proper mesne conveyances to whatever right and title the said Davidson, Tibbetts, Crockett, Baker, & Blair had in said premises.

December 1st, 1882.

B. S. BROOKS,
Solicitor for Complainants.

175 FLOURNOY, MHOON & FLOURNOY,
Solicitors for Defendants.

[Endorsed:] Filed March 16, 1883. L. S. B. Sawyer, clerk.

Defendant's counsel offers in evidence the expediente in the case, No. 550, and the petition for the grant of land is considered as read.

Defendant's counsel offers in evidence the petition of Manuel Jimeno Caserin for the grant, dated Monterey, January 8th, 1840.

Petition of Manuel Jimeno Caserin.

1840. Expediente preferred by Don Manuel Jimeno Casarin, petitioning for the place known by the name of "Saticoy y Santa Paula."

204. Seal third-two reads: Authorized by the administra-
176 tion of the maritime custom house of the port of Monterey, of Alta, California, for the years 1836 and 1837.

Guturez. ANGEL RAMIREZ.

This is valid for the years 1839 and 1840.

Alvarado. ANTONIO MA. OSIO.

To His Excellency the Governor:

I, the citizen Manuel Jimeno Casarin, present myself before your excellency in the manner pointed out by the law, and in due form with the proper respect, and represent: That in the year 1838 I petitioned your excellency for a tract of land in the southern portion of this department for the purpose of cultivating and stocking it with my cattle and those of my wife, and to obtain in that manner my own livelihood and that of my family, but I thought proper to suspend the proceedings ordered by your excellency directing
177 inquiries to be instituted (informe), intending to prosecute them at the first opportunity, and as in the month of June of the past year, Don Joaquin Ortega declared to me that he had voluntarily abandoned the place called the Potrero de Santa Paula, which had been granted to him in July of the year 1834, because he had obtained another tract of land for his own use and that of his family in the jurisdiction of San Diego, of which he is a resident, and the said Señor Ortega having handed over to me the title papers which he had for the Potrero of Santa Paula, as he had no need of them, and which I now respectfully furnish your excellency, accompanying this petition, I have thought proper to denounce with every formality; and I ask for the above-mentioned place called Potrero of

Santa Paula, with the extension at the same time of its lands,
178 which I claim, including those known by the name of Saticoy la Sienega el Rio, and la Sierra (the mountain), with the (Lomerias) of Santa Paula and its (pocitos), as pointed out by the map which properly accompanies this petition, promising not to disturb the Indians who are established in Saticoy.

Wherefore I ask and entreat your excellency that you will be pleased to grant me the tract of land pointed out, with its extension, by which I shall receive a favor and bounty.

I swear, &c.

Monterey, 8 of January, 1840.

(Signed) MANUEL JIMENO.

Defendant next offers in evidence the marginal decree of Alvarado, signed at Monterey, April 28th, 1840, approving the petition of Don Manuel Jimeno Caserin to be the owner of the farm lands
179 known as the Santa Paula y Saticoy.

Defendant next offers the report of the Agriculture and Commerce Committees endorsing the same, signed Monterey, 22d May, 1840, and on the 26th day of the same month sent it back to the Departmental Assembly approving the concession.

Defendant next offers in evidence the authorization from Alverado, dated Monterey, June 10th, 1840, setting apart to Don Manuel Jimeno Caserin the Santa Paula y Saticoy ranch.

Defendant next offers in evidence a letter from Jose Joaquin Ortega, dated San Diego, June 7th, 1839, in which he sets apart this land.

Defendant next offers the petition to Jose Figuerra, dated July 31st, 1834, to Jose Joaquin Ortega granting said lands.

180 Defendant next offers the grant from Don Juan B. Alvarado, dated Monterey, April 28th, 1840, to Don Manuel Jimeno Casarin by the name of Santa Paula y Saticoy and describing the same.

Defendant next offers in evidence the Expediente y Juridical possession, dated Nov'r 11th, 1847, and signed at Santa Barbara by Don Pablo de la Guerra.

MONTEREY, *April 28th*, 1840.

In view of the petition at the beginning of the expediente the established fact affirmed therein that the tract of land which had been granted to Don Joaquin Ortega called the Potrero of Santa Paula, is explicitly abandoned, and furthermore that the other lands adjoining it, including that known as Saticoy, is in a condition to be granted as well as all the other land mentioned in this espediente, and as it is suitable and in conformity with the laws and reg-
181 ulations concerning the matter, I declare D. Manuel Jimeno Casarin to be owner in fee of the above mentioned land called "Saticoy" up to the small hills ("Semitos") the Potrero of Santa Paula up to the "Arroyo de Mupie" and the mountain (La Sierra) the "Lorrievas" of Santa Paula and the "Positas" as pointed out

in the map which is attached to this espediente. Let the
182 proper orders be issued. Let it be recorded in the proper book and let this espediente be directed to the most excellent Departmental Assembly for its approval.

Senor D. Juan B. Alvarado, constitutional governor of the Californias, so ordered, decreed, and subscribed, to which I certify.

(Signed) ALVARADO.
(Signed) MANUEL JIMENO,
Secretary.

MONTEREY, 22- *of May*, 1840.

Being presented to the Excellent Departmental Junta, it was resolved in to-day's session to refer it to the Committee on Agriculture.

(Signed) JOSÉ Z. FERNANDEZ,
Secretary.

On the 26th of the same month the committee sent it back with the accompanying report.

(Signed) FERNANDEZ.

EXCELLENT SIR: The Committee on Agriculture and Commerce
united, charged by your excellent body to report upon the
183 espediente presented by His Excellency the Governor in the preceding session, having in view what has been done and the inquiries made, and other matters as far as we were able, submits for the consideration of your excellent body the following articles:

Article 1st. The concession made by the Departmental Governor under date of the 28th April of the present year, as is set forth in said concession, of the tract called "Santa Paula y Saticoy" to Manuel Jimeno Casarin is approved.

2d. Let the espediente be sent back to His Excellency the Governor for such ends as he may think proper.

Monterey, 25th May, 1840.

(Signed) S. ARGUELLO.
(Signed) JOSÉ RAFAEL GONZALES.

MONTEREY, 26- *of May*, 1840.

In this day's session the most excellent Departmental Junta approved the two artlcles which are embraced in the end of the preceding report.

(Signed) MANUEL JIMENO, *President*,
(Signed) JOSÉ Z. FERNANDEZ, *Secretary*.

184 MONTEREY, 10- *of June*, 1840.

In view of the approbation given in form on the 26th day of the month last past of the excellent Departmental Junta, let a certified copy of the same (testimonio) be given to the party, Don Manuel Jimeno Casarin in confirmation of the tract of land called "Saticoy y Santa Paula," which he obtained on the 28th of April of the present year.

Señor Don Juan B. Alvarado, Constitutional Governor of the De-

partment of the Californias, so ordered and subscribed, to which I certify.

(Signed) ALVARADO.
(Signed) FRANCISCO C. ARCE, *Chief Clerk.*

SAN DIEGO, *June 7th*, 1839.

Señor DON MANUEL JIMENO.

MY DEAR SIR AND FRIEND: With the greatest pleasure I have the satisfaction of sending you the title which had been granted to me of the "Potrero of Santa Paula" and do not fail, my friend,
185 to petition for it, but understood as it is explained by the map, since if you should merely secure the "Potrero," it is valueless, but including Saticoy, as I suggest to you, it may be a good thing.

The Señor Bernardo, it appears, is inclined to have "Alpieme" and not the tract of the Potrero; my friend, the title of San Juan Lopez has not arrived, and I beg you that you will not forget this poor man, who moreover requires it to be done. Have the goodness to give my compliments to the Señor Governor, and believe me, as far as I am able to serve you, your unchanging friend, who kisses your hand.

(Signed) JOSÉ JOAQUIN ORTEGA.

First Stamp. Six Dollars.

Authorized provisionally by the Maritime Custom House of Monterey for the years 1834 and 1835.

(Signed) RAFAEL GONZALES.
(Signed) FIGUERRA.

186 POLITICAL GOVERNMENT OF ALTA, CALIFORNIA.

Jose Figuerra, general of brigade of the army of the Mexican Republic, commanding general, inspector and superior political chief of Alta, California.

Inasmuch as the citizen, Jose Joaquin Ortega, a Mexican by birth, has asked, for his own personal benefit and that of his family, for the tract of land known by the name of Potrero of Santa Paula, bounded by the Arroyo of Mupie, the rancho of Santa Paula, and the mountain (Sierra), having first taken the necessary steps and made the proper investigations as ordered by the laws and regulations, in the exercise of the powers which have been conferred upon me, and in conformity with the approbation of the most excellent departmental (territorial) deputation of the 22d of this month,
187 sanctioning the concession of the said land of the Potrero of Santa Paula, made on the 15th of said month to the said citizen, Jose Joaquin Ortega, in the name of the Mexican nation I now confer upon him the aforesaid tract of land, declaring him to be the owner of the same by these present writings, subject to the payment of the tax that may be laid upon it if it should turn out to belong to the community (prepiros) of the Mission of Buen-ventura, when its boundaries shall be determined by the general regu-

lation of secularization of the mission, and on the following conditions:

1st. That it shall be subject to the conditions that shall be established by the regulations that are to be made for the distribution of the vacant lands, and that in the meantime neither the beneficiary nor his heirs shall have the power to divide or alienate that which is adjudicated to him, nor impose any servitude, lien, bond,
188 mortgage, nor any incumbrance whatever, even for charitable purposes, nor convey it in mortmain.

2d. He shall have the right to enclose it, without prejudice to the cross-ways, high roads, and easements; he shall enjoy it freely and exclusively, diverting it to such use or cultivation as may best suit him; but within one year at most he shall build a house, which shall be inhabited.

3d. He shall apply to the proper judge to be by him put in judicial possession, by virtue of this despatch, by whom the boundaries shall be marked out, in the limits of which he shall plant, in addition to the land-marks, some fruit trees or forest trees of some utility.

4th. The tract of land in question is one square league, more or less, as shown by the map which accompanies the espediente. The judge who shall deliver possession shall have it measured
189 according to the ordinance, in order to mark the boundaries, the surplus which follows to remain in the nation for its own use.

5th. If he shall contravene these conditions he shall lose his right to the land, and it shall be denounceable by another.

Wherefore, I order that this title, being regarded as firm and binding, shall be recorded in the proper book and be delivered to the party interested, for his protection and ulterior ends.

Given in Monterey, this thirty-first of July, 1834.

(Signed) JOSÉ FIGUEROA.

AUGUSTIN V. ZAMORANO, *Secretary.*

This is recorded on the book for the registering of titles to adjudicated lands, in leaves 43, number 41, which is used in the office of the secretary, under my charge.

Monterey, August 1st, 1834.

(Signed) ZAMORANO.

MONTEREY, 1*st of March*, 1840.

The above title is of no effect, inasmuch as Don Joaquin
190 Ortega has explicitly declared that he did not want the land in question, and that he ceded his right at the same time to Don Manuel Jimeno Casarini, to whom it has this day been adjudicated, with the extension explained in the espediente, which will be attached to the one formed at the instance of the said Ortega.

(Signed) ALVARADO.

(Signed) MANUEL JIMENO, *Secretary.*

Juan B. Alvarado, Constitutional Governor of the Department of the Californias:

Inasmuch as Don Manuel Jimeno Casarin has asked for his personal benefit and that of his family the place known by the name of Santa Paula y Saticoy, including the (Lominas) of Santa Paula and the (Pocitos), its boundaries being from the "Arroyo of
191 Mupee" on the east, to the small mountains (serritas) on the west, and from the mountain (sierra) on the north to the (Pocitos) to the south, as pointed out on the map which accompanies the proper espediente, having previously taken the necessary steps and made the proper investigations as ordained by the laws and regulations exercising the powers conferred upon me in the name of the Mexican nation, I have granted him the said tract of land with its waters and woods, declaring him to be the owner of the same by these present writings, and subjecting it to the approbation of the most excellent departmental Junta, and to the following conditions:

1st. He shall have the power to inclose it without prejudice to the high roads and cross-ways; he shall enjoy it freely and exclusively, directing it to such use and *and* culture as may best suit him,
192 but within a year he shall build a house, and it shall be inhabited.

2d. He shall petition the proper judge to be put in judicial possession by him in virtue of this dispatch, by whom the boundaries shall be marked out, on the limits of which he shall place the proper land marks.

3d. The land now granted is of the extent of four square leagues, more or less, as shown by the map which accompanies the espediente. The judge who shall give him possession shall have it measured in conformity with the evidence, the surplus that results remaining in the nation for its proper use.

4th. If he contravene these conditions he shall lose his right to the land, and it will be denounceable by another.

Wherefore I order that this title, being held as firm and binding, shall be recorded in the proper book, and that it be delivered
193 to the party interested for his security and ulterior ends.

Given at Monterey, 28th of April, 1840.

(Signed) JUAN B. ALVARADO.
(Signed) FRANCISCO CASEMEA ARCE, *Chief Clerk.*

This title is recorded in the book of adjudicated lands on leaves 24 over (v[a]) of the office of the secretary of the Government, Monterey, date as before.

(Signed) ARCE.

Filed in office Feb'y 3d, 1853.

(Signed) GEO. FISHER, *Sec't'y.*

To the alcalde of first instance:

I, Manuel Jimeno, a resident of this department, appear before your equitable court and represent: That having contained the

concession in full ownership of the tract of land known by the name of Santa Paula y Saticoy, according to the boundaries ex-
194 pressed in the title papers and map respectively issued in my favor to the Government, I now pray that you will be pleased to give me judicial possession according to law of the said tract of land. Be pleased to receive this petition on common paper, as no sealed paper is to be had.

Swearing that I take this step through no bad motive, &c., &c., &c.

Santa Barbara, Nov. 11th, 1847.

(Signed) MANUEL JIMENO.

SANTA BARBARA, *Nov. 12th*, 1847.

In accordance with the petition the survey, designative by boundaries and judicial possession of the tract of land called Santa Paula and Saticoy, will be proceeded with by me the present judge, as prayed for by the party interested in the espediente (title papers) in conformity with the documents which accompany it, designating for the execution of the same the 17th of the present month, so that the adjacent neighbors may be cited to appear by
195 a summons of admonition; all of which I, the first constitutional alcalde of the district of Santa Barbara, ordered, decreed, and signed, passing this act in my office before actual witnesses for want of a notary public, which I certify to.

(Signed) PABLO DE LA GUERRA.

Witnesses present:

(Sg'nd) VICENTE MORAGA.
RAYMUNDO OLIBAS.

On the same day Don Manuel Jimeno being present was notified of the preceding order, and being understood by him he declared that he heard it read and acknowledged himself notified, and signed it with me and the witnesses present, to which I certify.

(Signed) PABLO DE LA GUERRA.
(Signed) MANUEL JIMENO.

Witnesses present:

(S'g'd) RAYMUNDO OLIBAS.
" VICT. MORAGA.

196 On the some day and year were issued the writs of summons ordered in the first proceeding, & in order that this may compose a part of the judicial proceedings, I have placed my rubric to it. (Rubric.)

On the ranch of Santa Paula y Saticoy, this 17th day of November, 1847, in obedience to the notice served on the neighboring proprietors to said ranch, they have here met, D. Manuel Anguesola, in charge of San Buenaventura; Don Raymundo Olivas, and Don Felipe Lorensano, Don Juan Sanchez, Don Francisco de la Guerra, as attorney-in fact-of Don José de la Guerra; Don Jose de Jesus Car-

rillo, as represented by his father, Don Carlos A. Carrillo, and Don Fernando Fico, and being informed of the fact that the survey, designation by boundaries, and judicial possession in favor of
197 Don Manuel Jimeno was about to be proceeded with, they declared that they were well informed of the proceedings, and to give validity to their acknowledgment they subscribed the same with me and the witnesses present, to which I certify.

(Signed) PABLO DE LA GUERRA.

Witnesses present:

(Signed) VICENTE MORAGA.
" CRISANTE LORENSANA.

Neighboring proprietors:

(Signed) RAYMUNDO OLIVAS.
" D. MANUEL ANGUESOLA,
" By VICENTE MORAGA.
" FERNANDO FICO.
" FELIPE LORENSANA.
" JUAN SANCHEZ,

By his amanuensis,

(Sg'd) CRISANTE LORENSANO.
" CARLOS ANTO. CARRILLO.
" JOSE DE LA GUERRA Y NORIEGA.

After which I, the judge of these decrees, appointed as surveyors of the present act of possession the citizens Juan Pablo Ayala
198 and Antonio Rodriguez, who, having first accepted and being sworn, will proceed to the discharge of the duty assigned them; and to give validity to this proceeding I make it a part of the act, which I subscribe, together with the witnesses present.

(Signed) PABLO DE LA GUERRA.

Witnesses:

(Signed) VICENTE MORAGA.
" RAYMUNDO OLIVAS.

On the same day and year and on the same ranch the citizens Antoine Rodriguez and Juan Pablo Ayala were notified of the preceding order, and it being understood by them, they declared that they would accept and they did accept the duty of surveyors, and they took an oath by God, our Lord, with the sign of the cross, to execute it faithfully and legally to the best of their true knowledge and understanding, without any deceit or fraud upon any one, and they subscribed this act with me and the witnesses present.

199 (Signed) PABLO DE LA GUERRA.

Witnesses:

(Signed) VICENTE MORAGA.
" RAYMUNDO OLIVAS.

Surveyors:

(Signed) JUAN P. AYALA.
" ANTONIO RODRIGUEZ.

Wherefore I, the said judge, immediately ordered to be brought a chain (cordel) with which the lands of said ranch are to be measured, and ordered the surveyors to measure off fifty varas, which I subscribe, together with the witnesses present.

(Signed) PABLO DE LA GUERRA.

Witnesses present:

(Signed) VICENTE MORAGA.
" RAYMUNDO OLIVAS.

Whereupon and in presence of me, the said alcalde, the said surveyors took a cord made for the purpose of measuring lands, and with a vara of the usual Mexican length they measured fifty
200 varas on said cord, in order to make the said survey with it; and to give it validity, I affix my rubric.

(Rubric.)

On the same day and on the same ranch, it being about eight o'clock in the morning, I, the said alcalde, in order to proceed to the survey of the land that is to be made for Don Manuel Jimeno ordered the said surveyors to station themselves in the second ravine (barranca) towards Santa Buenaventura, and on the main road which leads to the river of Santa Clara, the bearing being E. ¼ S., and passing between the small hills until it reaches said river, they shall measure one hundred and four chains (cordels of 50 varas). Thence along the valley of said river in the direction N. E. ¼ E. to the six elm trees which are on the right bank of the river, and to the west of the point of the hill top, they should measure one hundred
201 and fifty-five cordels (155). From these elms due east to the said point of the hill top crossing the river, they should measure twenty-six cordels (26), and from thence following the same bearing of the compass (and dispensing with the cordel for about one hundred and fifty varas) over the skirt of the hills until they come to a small ravine or gully, on the left bank of which and at the foot of the slope of the hill is a small willow tree (sanquito), the measurement was one hundred and thirty cordels (130). From that point the survey followed the skirt of the hills in the direction east northeast until they met the arroyo called "Colorado," having measured fifty-five cordels (55.) From this point crossing the hills by the compass N. N. E., until meeting the confluence of the Arroyo de Musee with the said river of Santa Clara, it was calculated by the experts that they had run thirty-five cordels (35) from said
202 confluence, bearing northwest, following the course of the Arroyo de Musee until its junction with the Sisa Arroyo, they measured two hundred cordels (200), and from this point following the bed of the last arroyo to its mouth (and where source is in the hills which are seen to the north), they measured thirty cordels (30). And having finished the survey thus far by sunset, it was ordered to suspend operations, to be resumed the next day. The above was in accordance with the orders of me, the alcalde, which

I subscribe, together with the witnesses present, according to law; to which I certify.

(Signed) PABLO DE LA GUERRA.

Subscribing witnesses:

(Signed) VICENTE MORAGA.
" RAYMUNDO OLIVAS.

On the 18th day of the same month and year, in the pres-
203 ence of the neighboring proprietors, the surveyors, and others assembled, I gave orders that *that* to finish the survey of this ranch of Santa Paula y Saticoy, that it should begin from the starting point, which was the second ravine towards San Buenaventura, and on the main road passes by the small hills, and the surveyor taking the chain of fifty varas and following the bearing due north until they reach the summit of the hill, where is the source of the small ravine that comes to the plain measured sixty-six cordels (66), and following the same direction passing over the peak of the higher hill which serves as a boundary for the Messrs. Moraga until they reach the summit or top of the hills called the "Azufre," and which are the most elevated peaks they met with, it was calculated, by those skilled in the matter, that the distance was one and
204 three-quarter leagues; this is one hundred and seventy-five cordels; and following the summit or ridge of these tall hill tops, running a course about from west southwest to east northeast, or very nearly, until reaching the boundaries of the confluence of the Arroyos of Musee and Sisa, where the survey stopped the day previous, the distance was calculated to be three leagues, or three hundred cordels (300), which concluded the act of survey in the presence of the surveyor & and the adjoining owners, who subscribed this act with me and the witnesses present, by whom it was done in the established form. To which I certify.

(Signed) PABLO DE LA GUERRA.

Witnesses:

(Signed) CRESANTO LORENSANA.
" VICENTE MORAGA.

Colindantes (adjoining owners):

(Signed) RAYMUNDO OLIVAS.
" JOSE MORAGA.
" D. MANUEL ANGUESOLA,
" By VICENTE MORAGA.
205 " CRESANTO LORENSANA,
For Juan Sanchez.
(Signed) CARLOS ANTO. CARRILLO.
" FERNANDO FICO.
" FELIPE LORENSANA.
" JOSE DE LA GUERRA Y NORCEGA.

Surveyors:

(Signed) JUAN P. AYALA.
" ANTONIO RODRIGUEZ.

On the said ranch of Santa Paula y Saticoy, on the same day of the month and year, Don Manuel Jimeno, residing in this department, accompanied by the alcalde and witnesses present subscribing these acts, declared: That the lands of this ranch having been measured, as appears by the preceding act, he took and takes the true and corporeal possession of said lands surveyed as they belong to him, by just title, with which the government favored him by having made him a grant to the same, and in entire conformity with the approbation of the most excellent Departmental
206 Assembly, and he walked over the ground, pulled up herbs, scattered handsfull of earth, broke branches from the trees, and made other demonstrations and acts of possession as a sign and evidence of that which he declared he took of the said lands; and I, the said Alcalde, decree that from this time he shall be held and recognized as the true lord and possessor of the same.

All which said acts were demanded by Don Manuel Jimeno, and, as a memorial for the future and for the preservation of his rights, these original proceedings were handed over to him, which I subscribe, as well as the witnesses present, according to law. To which I certify.

(Signed) PABLO DE LA GUERRA.

Subscribing witnesses:

(Signed) VICENTE MORAGA.
" RAYMUNDE OLIVAS.

207 On the same day a legalized copy of these proceedings was made, to be filed in the archives of the court over which I preside; in legal confirmation of which I subscribe this, with the witnesses present.

(Signed) PABLO DE LA GUERRA.

Witnesses:

(Signed) VICENTE MORAGA.
" GULL'EO CARILLO.

On the proper date these original proceedings were handed to the party interested, as five leaves written on. In testimony whereof, I make my rubric.

(Rubric.)

The proper expenses of the same have been paid.

(Signed) PABLO DE LA GUERRA.

To the same alcalde of this district:

I, Manuel Jimeno, represent to you, before whom it can with most propriety be done, according to law—

208 That, having obtained the judicial possession of the land known as Santa Paula y Saticoy, which the government absolutely conceded to me, and I, out of charity, having allowed the Indians Ouido and Luis Franario to sow their grain in said land, without their causing me any injury, I petition respectfully that

your honor may make them appear before you, and notifty hem judicially that I am the sole owner of said land, and that the houses which they built during my absence, that they may acknowledge that they have no right to sell them, nor to dispose of them to be rebuilt on other land, and that they alone and their families can inhabit them during their lifetime by virtue of the kindness which I show them, but without giving them, nor must they assert, any right to the ground on which they are built; and that in case
209 it does not suit their convenience to continue in the enjoyment of the favor which I do them, and they should abandon these houses for any cause, or if their behavior should not be good, that the said houses shall be for the benefit of the ranch, they receiving satisfaction from me alone for the value of said house-.

I ask justice, &c.

Santa Barbara, Dec. 2, 1847.

(Signed) MAN'L JIMENO.

SANTA BARBARA, *Dec.* 3, 1847.

The Indians Guedo and Luis Francisco were served with notice in person, and acknowledged of the contents of the foregoing petition ; so I, the alcalde, order, decree, and subscribe with the witnesses present, according to law. To which I certify.

(Signed) LUIS CARILLO.

Witness:

(Signed) RAYMUNDO CARILLO.

210 On the same day, the Indian Guido being present, I made him aware of the contents of the foregoing application, which he said he understood, and that he would comply with what D. Manuel Jimeno justly desired as owner of the land named Santa Paula y Saticoy, and to give it binding force he made the sign of the cross in my presence and that of the subscribing witnesses, by whom it was done in the established form. I certify.

† (Signed) LUIS CARILLO.

Witnesses:

(Signed) CEASAREO LATAILLADE.

(Signed) RAYMUNDO CARILLO.

On the same day the Indian Luis Francisco being present, was informed of the contents of the application, the origin of these proceedings, and having heard it he declared he understood it, and that he would comply with what D. Manuel Jimeno justly
211 desired as owner of the land known as Santa Paula y Saticoy, and to give it validity he made the sign of the cross before me and the subscribing witnesses, by whom it was done in the established form. I certify.

(Signed) LUIS CARILLO.

Witness:

(Signed) RAYMUNDO CARILLO.

On the proper date these proceedings were handed to Don Manuel

Juneiro for the purposes he may desire, and in testimony of which I subscribe with the witnesses present.

(Signed) LUIS CARILLO.

Witness:

(Signed) RAYMUNDO CARILLO.

Filed in office Feb. 3, 1853.

(Signed) GEO. FISHER, *Sec'y.*

Plaintiffs' counsel objects, on the ground that it is incompe-
212 tent, as it was surveyed in 1847, which was after the Mexican officers had lost all authority, and after the Mexican land laws had ceased; and on the further objection that the land of which the juridical survey was made was in a great part outside of the land granted. The lands granted, and as described in the map and patent, goes up to the foot of the hills, while the lands on which the juridical possession is given goes over and takes in four or five leagues of the hills.

Admitted, subject to plaintiffs' objection, and read.

213 Defendant offers, in connection with the juridical survey made on the 17th November, 1847, the map made at the same time and called "Ex. J," in case No. 550, the same bearing a certificate from the surveyor general's office that it was a diagram, under the act of juridical possession.

Objected to, on the ground that it was no part of the expediente of juridical possession and was not so certified, but is a loose paper filed in 1853.

Admttted, subject to objection.

(Here follows diagram, marked p. 213.)

214 REPORTER'S NOTES. EXHIBIT J.

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, Theo. Wagner, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory, or Department of Upper California, as also the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the powers vested in me by law, do hereby certify that the preceding and hereunto annexed page of tracing paper exhibits a true, full, and correct copy of the original diagram (marked Exhibit J) of Santa Paula and Saticoy, John P. Davidson, filed in case No. 550 on the docket of the foresaid board of commissioners, together with the endorsements thereon, and now on file in this office and in my custody; that
215 I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

In testimony whereof, I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this eighth day of August, 1881.

THEO. WAGNER,
U. S. Surveyor General for California.

Endorsed: Exhibit J. Filed August 23, 1884, as of March 16, 1883, by order of judge. L. S. B. Sawyer, clerk.

216 Defendant also offers the further confirmation or approval of Saticoy grant by Micheltorrena April 1st, 1843:

The citizen Manuel Micheltorena, brigadier-general of the Mexican army, adjutant-general of the principal staff of the same, Governor, Commander General, and Inspector of the Department of the Californias:

Whereas D. Manuel Jimeno Casarin has shown that the ranchos which have been granted to him, the first named Pajaro a Salsipuedes and the second called Santa Paula y Saticoy, as they are embraced within the ten literal leagues as expressed in the colonization law, and that for this reason the said D. Manuel Jimeno prays for the approbation to be given to the supreme government in accordance with said law; and finding myself invested with supreme power, transmitted to me by the order of 11th Feb-
217 ruary, 1841, I now approve said concessions according to the extent indicated by the respective maps, in order that the recipient and his heirs may enjoy them as a domain lawfully acquired and approved by the supreme government.

City of Los Angeles, 1st April, 1843.

(Signed) MAN'L MICHELTORENA.
(Signed) FRANCO ARCE, *First Clerk.*

Filed in office Feb'y 9, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Defendant rests.

Mr. Brooks, counsel for plaintiff, offers and reads in evidence the following stipulation, to wit:

Stipulation as Documentary Evidence.

In the Circuit Court, Ninth Circuit, District of California.

RUDOLPH STEINBACH *et al. vs.* A. P. MORE *et al.*

218 It is hereby stipulated that either plaintiff or defendant herein may read any instrument from any abstract of title of Santa Paula y Saticoy Rancho certified by the county recorder of Santa Barbara or Ventura counties.

March 12th, 1883.

B. S. BROOKS,
Solicitor for Plaintiff.
FLOURNOY, MHOON AND FLOURNOY,
Solicitors for Defendant.

Plaintiffs' counsel offers in evidence an abstract of the title of defendants to the lands held by them and a copy of the deed showing the deraignment of the title from the confirmees, who petition for the confirmation of the title to the plaintiff.

Defendants object, because it is stipulated that Davidson succeeded Jimeno the 11th October, 1852, and that the defendants succeeded Davidson.

219 Mr. BROOKS: We have a certified copy of the deed from Briggs and Haskell to Moore. Thomas R. Moore and Alex. A. Moore conveyed the land as described in the juridical survey of possession on the 11th Oct., 1852.

Objected to, on the ground that plaintiffs must prove their title, and not show defects in that of the defendant.

Mr. BROOKS: On the 11th Oct., 1852, Jimeno conveys to John P. Davidson, Stephen Tibbetts, James Blair, Jas. B. Crockett, and E. D. Baker these lands, specifying the proportions to each; then, on the 17 January, 1862, Thomas W. Moore, Alex. P. Moore, the defendant, and Henry A. Moore, by T. W. Moore, his attorney, conveyed to George P. Briggs the whole of the rancho by the boundaries given in the juridical possession. In 1872 the patent is issued, Briggs and Haskell then being the owners, and the patent is placed on record in the county recorder's office of the county of Santa Barbara.

220 Then, on the 25th Feb., 1881, Geo. G. Briggs and E. W. Haskell convey to Alex. P. Moore all the ranch except what is conveyed in the patent, "except four leagues therein and thereof being heretofore patented by the United States to John P. Davidson, claimant."

Admitted in evidence, subject to objection.

Abstract marked "Ex. B."

Deed marked "Ex. C."

Manuel Jimeno to John P. Davidson, Stephen M. Tibbetts, Joseph B. Crockett, Edward D. Baker, James Blair. Deed book A, page 12.

Conveyed to—

John P. Davidson	$\frac{3}{8}$
Stephen M. Tibbetts	$\frac{1}{8}$
Crockett & Baker	$\frac{1}{3}$
James Blair	$\frac{1}{6}$
	1

221 Sheriff to Mahoney. Deed book A, page 146.

Execution from dist. court 12th jud. dist. Tested May 25th, 1855. Suit of David Mahoney *vs.* Angus McDowell, John Morris, and J. Beckwith.

No record but deed in this office.

James P. Blair to Levi Parsons. Deed book A, 30.

Should be dated June 13th, 1853.

States that the party of the first part owns $\frac{1}{6}$ of the rancho, and conveys one-half of his interest, that is, $\frac{1}{12}$th.

Rancho Santa Paula y Saticoy.

Finally confirmed to John P. Davidson *et al.*

A. Patented to John P. Davidson, James Blair, Stephen
222 M. Tibbets, Joseph B. Crockett and Edward D. Baker. Patent issued April 22d, 1872.

Recorded book A of patents. Transcribed records from Santa Barbara county, page 329 *et seq.*

B. John P. Davidson, Stephen M. Tibbets, James Blair, Joseph B. Crockett, Edward D. Baker, to Manuel Jimeno. Deed.

Dated October 11th, 1852.

Consideration, $22,500.00.

Signed by all parties.

Acknowledged Oct. 11, 1852, before Chas. M. C. Delany, notary public in and for city and county of San Francisco.

Recorded Oct. 30, 1852, at 11.30 o'clock a. m., by Chas. E. Huse, county recorder, Santa Barbara county, in book A, transcribed records, page 7.

Grant, bargain, sell, and convey all of the Rancho Santa
223 Paula y Saticoy as described in juridical possession, and more fully described in page 11 of this abstract.

C. Manuel Jimeno to John P. Davidson, Stephen M. Tibbets, Joseph B. Crockett, Edward D. Baker, & James Blair. Deed.

Dated Oct. 11, 1852.

Consideration, $18,234.00.

Signed Manuel Jimeno.

Acknowledged Oct. 11, 1852, before Chas. M. C. Delany, notary public, San Francisco.

Recorded Dec. 23, 1852, at 11 o'clock a. m., by J. W. Burrough, county recorder.

Book A, transcribed records, page 12, *et seq.*

Grant, bargain, sell, convey, and confirm all the Rancho Santa Paula y Saticoy as per juridical survey, more fully described, page 11 of this abstract.

224 D. E. D. Baker & J. D. Crockett to William W. Stow. Agreement to convey.

Signed E. D. Baker, J. B. Crockett. Acknowledged Oct. 16, 1852, before Geo. F. Hunt, notary public, city and county of San Francisco.

Recorded Dec. 23, 1852. J. W. Burrough, county recorder. Book A.

Agree to convey to said W. W. Stow one equal undivided half of their third part of Rancho Santa Paula y Saticoy, provided the said Stow shall pay to them the sum of seven thousand five hundred dollars with- twelve months of the 11th day of Oct. 1852.

(Nothing of record appears to have been conveyed by virtue of this agreement. It probably lapsed.)

See abstract, letter K.

E. J. B. Crockett & E. D. Baker to John Morris. Deed.
225 Signed J. B. Crockett, E. D. Baker. Acknowledged March 14, 1853, before Solomon A. Sharp, notary public, city and county of San Francisco. Recorded 14 May, 1853, at 4 o'clock p.

m. J. W. Burrough, county recorder. Book A, transcribed records, page 24, *et seq.* Consideration, $4,000.00. (See letter L of this abstract.)

Grant, bargain, and sell, convey and quit claim unto the said Morris one undivided sixth part of the Rancho Santa Paula Saticoy, as per juridical survey more fully described on page 11 of this abstract.

F. James Blair to Levi Parsons. Deed.

Dated Oct. 13th, 1853.

Acknowledged before W. C. Parker, a notary public, county of San Francisco, June 14, 1853.

Signed James Blair.

Recorded July 15, 1853, at 11 a. m. James W. Burrough,
226 recorder. Book A, transcribed records, page 30, *et seq.*

Grant, bargain, and sale of one-half of the interest of the party of the first part in and to the Rancho Santa Paula Saticoy as described.

G. John P. Davidson to William I. White. Deed.

Dated April 1st, 1853.

Signed J. P. Davidson.

Ack. before M. C. Delany, notary public, San Francisco, April 1, 1853. Recorded Oct. 5th, 1853. Geo. D. Fisher, county recorder, book A, transcribed record, fol. 35, *et seq.*

Grant, bargain, and sale, remise, release, and quit claim unto the party of the second part one undivided one-fourth part of all the Rancho Santa Paula Saticoy, thereinbefore described.

H. William F. White to Eugene Kelly. Deed.
227 Dated April 21, 1853.

Signed William F. White.

Ack. before Chas. M. C. Delany, notary public, San Francisco, April 26, 1853.

Recorded Oct. 5th, 1853, at 45 min. p. m. Geo. D. Fisher, county recorder. Book A, transcribed records, page 39, *et seq.*

Bargain and sale, remise, release, and quit claim unto the party of the second part, one undivided eighth part of all the Rancho Santa Paula y Saticoy, as hereinafter described.

I. William F. White & Eugene Kelly, by his att'y-in-fact, Joseph R. Donohue, to Levi Parsons. Deed.

Dated Sept. 9, 1853.

Signed William F. White, Eugene Kelly, by Joseph Donohue, att'y-in-fact.

228 Ack. before W. Hart, notary public, San Francisco, Sept. 9, 1853.

Recorded Oct. 5, 1853, 45 min. p. m. Geo. D. Fisher, recorder. Book A, transcribed records, page 42, *et seq.*

Grant, bargain, and sale, remise and quit-claim one undivided one-fourth part of Rancho Santa Paula y Saticoy as hereinbefore described.

J. John P. Davidson to Levi Parsons. Deed.

Dated January 10, 1854.

Signed John P. Davidson.

Ack. before William Hart, notary public, San Francisco, January 10, 1854.

Recorded January 17, 1854, 12 m. Geo. D. Fisher, recorder. Book A, transcribed records, page 81, *et seq.*

Grant, bargain, and sale and quit-claim to all the undivided one-eighth part of the Rancho Santa Paula y Saticoy as hereinbefore described.

229 K. J. B. Crockett, E. D. Baker, William W. Stow, & J. Bryant Hill to Levi Parsons. Deed.

Signed J. B. Crockett, E. D. Parker, William W. Stow, J. Bryant Hill.

Ack. before W. C. Parker, notary public, San Francisco, Oct. 27, 1853.

Recorded May 24, 1854, at 10 o'clock a. m. Geo. D. Fisher, recorder. Book A, transcribed records, page 91, *et seq.*

Grant, bargain, and sell and convey to party of the second part one undivided sixth part of the Rancho Santa Paula y Saticoy as hereinbefore described. And reciting that whereas heretofore, on the 11th day of Oct., 1852, Manuel Jimeno did convey to Joseph B. Crockett and Edward D. Baker one undivided third part of

230 the said rancho; and whereas the said Crockett and Baker by their contract, dated Oct. 16, 1852, did agree with Wm. W. Stow to convey to him one undivided half of their one-third of said rancho; and whereas the said Stow has assigned his interest in the said contract to J. Bryant Hill; and whereas the said Crockett and Baker, with the consent and approval, have conveyed to John Morris one undivided half of their undivided third part of said rancho, so that there now remains to the said Crockett and Baker only one undivided sixth part of said rancho, which sixth part they have agreed, with the consent of the said Stow and Hill, to sell and convey to Levi Parsons.

L. Sheriff of Santa Barbara Co. to David Mahony. Deed.

Dated Aug. 5, 1856.

Signed Russell Heath, sheriff.

231 Ack. Aug. 5, 1856, before Geo. D. Fisher, county clerk, Santa Barbara Co.

Recorded Aug. 16, 1856. 10 o'clock a. m. Geo. D. Fisher, county recorder. Book A, transcribed records, page 146, *et seq.*

Conveys by sheriff's deed all the right, title, and interest of John Morris in and to the Rancho Santa Paula y Saticoy.

(See letter E of this abstract.)

M. James Blair to Eugene Casserly. Deed.

Dated Jan'y 14, 1853.

Signed James Blair.

Ack. Jan'y 14, 1853, before Wm. Morris, notary public, San Francisco.

Recorded Dec. 5, 1857, 12 a. m. Eugene Lies, county recorder. Book A, transcribed records, page 200, *et seq.*

Grants, bargains, and sells unto the party of the second

232 part all the undivided one-half of interest of the said Blair of and to the Rancho Santa Paula y Saticoy as hereinbefore described.

N. Eugene Casserly to Henry H. More. Deed.
Dated Aug. 2, 1860.
Signed Eugene Casserly.
Ack. before F. I. Thibault, notary public, San Francisco.
Recorded Aug. 6, 1860, at 9 a. m., Chas. E. Cook, county recorder, book A, Transcribed Records, page 282 *et seq.*
Grant, bargain, and sale unto the party of the second part all the right, title, and interest of the first part of, in, and to the Rancho Santa Paula y Saticoy, as hereinbefore described.

O. Eugene y Kelly to Joseph A. Donohue. Power of attorney.
Dated March 15, 1853.
233 Signed Eugene Kelly.
Ack. March 15, 1853, before L. W. Sloat, notary public, San Francisco.
Recorded Oct. 15, 1853, book A, powers of attorney, Transcribed Records, page 1.
General power of att'y to take possession of all real estate in Santa Barbara Co., with power to sell and convey same, with power of substitution and revocation.

P. Alexander P. More to I. W. More. Power of attorney.
Dated January 29th, 1863.
Signed Alexander P. More.
Witness, Joseph Grant.
Ack. January 29, 1863, before Joseph Grant, notary public, Santa Barbara county.
Recorded February 2d, 1863, at 3 o'clock p. m., in book "A," page 26, Transcribed Records. Gen'l power of attorney to collect debts,
234 pay debts, buy and sell lands and other securities, and generally to transact business of all kinds, with power of substitution and revocation.

STATE OF CALIFORNIA, }
County of Ventura, } *ss:*

I, John I. Stow, county clerk and *ex-officio* county recorder in and for the county aforesaid, do hereby certify that the foregoing abstract of the Rancho Santa Paula y Saticoy, lettered from "A" to "P," inclusive, and pages 1 to 10, inclusive, is a correct abstract of said rancho, as the same appears on the records of my office as to conveyances affecting the same.
Witness my hand and official seal, this 13th day of Feb., 1883.
[SEAL.] JOHN I. STOW,
County Recorder,
By ROB'T W. FORTH,
Deputy.

Levi Parsons to T. Wallace More and Alexander P. More. 1
Deed.
235 Dated November 14th, 1857.
Consideration, $16,000.00.

Signed, Levi Parsons.

Acknowledged before Geo. T. Knox, notary public, Nov. 16th, 1857.

Recorded Nov. 23d, 1857, by Eug'e Lies, county recorder of Santa Barbara county, book A, Transcribed Records of Ventura Co., page 197, *et seq.*

Grant bargain, and sale, remise and quit-claim all the right, title, and interest of the party of the first part of, in, and to that tract of land and premises situate in the county of Santa Barbara, and known as the rancho of Santa Paula and Saticoy, bounded and described as follows, to wit: Bounded by a line commencing at a point in the second ravine (barranca) towards Santa Buena, and on the main road to the river of Santa Clara, thence running east one-quarter south, and passing between the small hills until it strikes said river 104
236 cordels or surveyor's chains of 50 varas each; thence along the valley of said river in the direction of northeast one-quarter north to the six elm trees on the right bank of the river, and to the west of the point of the hill top 155 cordels; from the elms due east to the said point of the hill top crossing (cortando) the river 26 cordels; and thence in the same direction (without using the cordel) about 150 varas; and thence continuing the line over and along the skirt (folda) of the hills until it strikes a small willow or alder tree (sanquito) on the left bank of a small ravine or gully and at the foot of the slope of the hills 130 cordels; thence along the skirt of the hills east northeast as far as the ar-oyo called the Colorado 55 cordels; thence by the way of (trozando) the hill in a direction north northeast as far as the confluence of the Arroyo Mupee with the river Santa Clara 35 cordels, more or less;
237 thence from the said point of confluence in a northwest direction, following the course of the Arroyo de Mupee to its junction with the Arroyo de Liza, 200 cordels: thence following the bed of the last-named arroyo to its mouth or termination (disembarcadura), and whose source is in the hills that are seen to the north, (30 cordels;) thence and from the boundaries of the confluence of the Arroyo de Liza and the Arroyo de Mupee, and following the summits of the high hills called Azufre, being the highest and wooded hills in the vicinity, in a direction about east northeast to west southwest, as far as the summit or bluff (cima O'tope) of the Azufre hills, about 300 cordels or three leagues, more or less; thence running due south and passing over the peak of the highest hills (cimo mas alta), which serves as a boundary of land now
238 or late of Messrs. Moraga, 175 cordels, or one and three-quarter leagues, more or less; thence in the same direction, and passing over the summit of the hills in which rises a small ravine that comes down to the plain, 66 cordels to the point of the second ravine (barranca) towards San Buena Ventura, which was the place of beginning.

David Mahony to Alexander P. More and Henry H. More. 2. Deed. Dated August 22d, 1859. Consideration, 3,500.00. Signed, David Mahony. Acknowledged before C. J. Brenham, notary pub-

lic, Sept. 9th, 1859. Recorded Sept. 13th, 1859, by Chas. E. Cook, county recorder of Santa Barbara county, book A, Transcribed Records of Santa Barbara county, page 260, *et seq.*

Grant, bargain, sell, remise, convey, and quit-claim unto
239 the said parties of the second part, and to their heirs and assigns, forever, all the right, title, and interest of the said party of the first part in and to the undivided one-sixth part of that certain tract of land, rancho, or farm situate in the county of Santa Barbara, State of California, known as the rancho of Santa Paula and Saticoy, and bounded and described as follows, to wit: Bounded by a line commencing at a point in the second ravine (baranca) towards San Buenaventura, and on the main road to the river of Santa Clara; thence running east one quarter south, and passing between the small hills until it strikes the said river, one hundred and four (104) cordels or surveyor's chains of fifty varas each; thence along the valley of said river in the direction northeast one-quarter east to the six elm trees on the right bank of the river, and to the west of the point of the hill top crossing (cenzando) the river, twenty-six cordels; and thence in the same direction (without using
240 the cordels) about one hundred and fifty varas, and thence continuing the line over and above the skirt (falda) of the hills until it strikes a small willow or alder tree (ganjuito) on the left bank of a small ravine or gully and at the foot of the slope of the hills thirty cordels; thence along the skirt (falda) of the hills east northeast as far as the arroyo called the Mupee fifty-five cordels; thence by way of the (Trozanda) hills, in a direction north northeast as far as the confluence of the Arroyo Mupee with the river Santa Clara, thirty-five cordels, more or less; thence from said point of confluence in a northeast direction, following the course of Arroyo de Mupee to its junction with the Arroyo Lisa, two hundred cordels; thence along the bed of this last-mentioned arroyo to its mouth or termination (disembarcadero) (and whose source is in the hills that are seen to the north), thirty cordels; thence and
241 from the boundary of the confluence of the Arroyo de Lisa and the Arroyo de Mupee, and following the summit or ridge of the hills called Azufre (being the highest and wooded hills in the vicinity), in a direction about from east northeast to west southwest, as far as the summit or bluff (avesatope) to the Azufre hills, about three hundred cordels or three leagues, more or less; thence running due south, and passing over the peak of the highest hills (lomas mas alta) which serves as a boundary of land now or late of Messrs. Moraga, one hundred and seventy-five cordels or one and three-quarters leagues, more or less; thence, in the same direction, and passing over the summit of the hills in which rises a small ravine that comes down to the plain sixty-six cordels, to the point in the second arroyo towards San Buenaventura, which was the place of beginning, which said loma contains in all four square leagues, more or less.

242 Stephen M. Tibbits to A. P. Moore and H. H. Moore. Deed 3. Dated January 16th, 1860.

Consideration, $1,500.00.

Signed, S. M. Tibbits.

Acknowledged before C. J. Brenham, notary public, January 16th, 1860.

Recorded January 20th, 1860, Chas. E. Cook, county recorder of Santa Barbara county, in book A, transcribed records of Santa Barbara county, page 277 *et seq.*

Doth bargain, sell, and convey unto the said parties of the second part, their heirs and assigns, forever, all his right, title, and interest of, in, and to the undivided one-eighth part of that certain tract of land lying and being in the county of San[ta] Barbara, State of California, known as the Rancho of Santa Paula and Saticoy, being the same rancho heretofore granted to Manuel Jimeno by Juan B. Alvarado, Governor of California under the Republic of Mexico, by decree, made at Monterey, April 28th, 1840, and by a concession, at
243 Monterey, June 10th, 1840, containing four square leagues, more or less.

Thomas W. More, Alexander P. More, Henry H. More, by T. W. More, his att'y-in-fact, to George G. Briggs. Deed 4.

Dated January 17th, 1862.

Consideration, $45,000.00.

Signed, Thomas W. More, Alexander P. More, Henry H. More, by Thomas Wallace More, his attorney-in-fact.

Acknowledged before Clinton Palmer, notary public, January 17, 1862.

Recorded January 24th, 1862, by F. A. Thompson, county recorder of Santa Barbara county, in book A, transcribed records of Santa Barbara county, page 324 *et seq.*

Do grant, bargain, and sell unto the said party of the
244 second part, and to his heirs and assigns, forever, all that certain rancho situated, lying, and being in the county of Santa Barbara and State of California, and known as the Rancho "Santa Paula y Saticoy," and bounded and described as follows: Bounded by a line commencing at a point in the second ravine (barranca) toward San Buenaventura, on the main road to the river of Santa Clara; thence running east one quarter south, and passing between the small hills until it strikes said river one hundred and four (104) cordels or surveyor's chains of fifty varas each; thence along the valley of said river in the direction of northeast one quarter north to the six elm trees on the right bank of the river, and to the west of the point of the hill top, one hundred and fifty-five (155) cordels; from the elms due east to said point of hill top, crossing (cortando) the river, twenty-six (26) cordels, and thence in the same direction (without using the cordel) about one
245 hundred and fifty (150) varas, and thence continuing the line over and along the skirt (falda) of the hills until it strikes a small willow or alder tree (sanquito) on the left bank of a small ravine or gully, and at the foot of the slope of the hills, one hundred and thirty (130) cordels; thence along the skirt (falda) of the hils E. N. E. as far as the arroyo called the Colorado, fifty-five (55)

cordels; thence by the way of (trozando) the hills, in a direction N. N. E., as far as the confluence of the Arroyo Mupee with the river Santa Clara, thirty-five (35) feet (cordels), more or less; thence (from the said point of confluence) in a northwest direction, following the course of the Arroyo de Mupee with the Arroyo de Sisa, two hundred (200) cordels; thence following the bed of the last-named arroyo to its mouth or termination (disembocadura), and whose source is in the hills that are seen in the north, thirty (30) cordels, and from the boundaries of the confluence of the Arroyo de Sisa and the
246 Arroyo de Mupee, and following the summits or ridge of the highest hills, called Azufre, being the highest and wooded hills in the vicinity, in a direction about from east northeast to west southwest, as far as the summit or bluffs (crina ó tope) of the Azufre hills, about three hundred (300) cordels or three leagues, more or less; thence running due south, and passing over the peak of the highest hills (loma mas alta), which serves as a boundary of land, now or late of Messrs. Moraza, one hundred and seventy-five (175) cordels, or one and three-quarter leagues, more or less; thence in the same direction, and passing over the summit of the hill, on which rises a small ravine that comes down to the plain, sixty-six cordels, to the point of the second ravine, towards San Buenaventura, which was the place of beginning, containing four square leagues, more or less.

G. G. Briggs & E. W. Haskell to Alexander P. More. Deed 5,
247 Dated February 25th, 1881. Consideration, $1.00. Signed G. G. Briggs, E. W. Haskell.

Acknowledged before Samuel S. Murfey, notary public, March 1st, 1881. Recorded March 4, 1881, by L. F. Eastin, recorder of Ventura county, in book of deeds, page 409 *et seq.*, Ventura county records.

Demise, release, and forever quit claim unto the said party of the second part, and to his heirs and assigns forever, all that certain lot, piece, or parcel of land situate in the county of Veutura, State of California, and described as follows, to wit: All and singular the right, title, interest, and estate of said parties of the first part in and to all the land and premises embraced within and covered by the grant known as the Santa Paula y Saticoy, granted to Manuel Jimeno Casarin by Manuel Micheltorena, then Governor of California, within the then Republic of Mexico. Said grant is lying and situated within the county of Ventura, State of California,
248 this conveyance and quit-claim deed being of all of our, and each of our, rights, titles, interests, and estates, jointly and severally, in and to the whole of the land and premises embraced within and covered by said grant, saving and excepting the four leagues thereof and therein heretofore surveyed and patented by the United States, John P. Davidson, claimant.

A. P. More to Mahlon Thorne. Deed 6.

Dated May 21st, 1881. Consideration, $2,400.00. Signed A. P. More. Acknowledged before Sam'l S. Murfey, notary public, May 26, 1881.

Recorded May 28, 1881, by L. F. Easton, county recorder of Ven-

tura county, in book 10 of deeds, page 93 *et seq.*, Ventura county records.

Remise, release, and forever quit-claim unto the said party of the second part, and to his heirs and assigns, all that certain
249 lot, piece, or parcel of land situate in the said county of Ventura, State of California, and bounded and particularly described as follows, to wit: Commencing at the northeast corner of subdivision No. twenty-one (21), as surveyed by W. H. Norway; thence northerly along the line of G. G. Sewell one hundred and thirty (130) rods to a rock mound; thence westerly in a parallel line with the north line of Briggs' Ranch one hundred and sixty (160) rods to a rock mound; thence south along the east line of the claim of William O'Hara to the line of the aforesaid Briggs' Ranch; thence easterly along the said line to the place of beginning, being one hundred and sixty (160) acres more or less of the Santa Paula y Saticoy grant, as finally confirmed by the United States board of land commissioners, except and excepting therefrom all deposits and veins of oil, asphaltum, bitumen, and all other mineral
250 deposits, with full privilege of ingress and egress to and from the same, together with all, &c., &c.

A. P. More to William Lineberger. Deed 7.

Dated June 16th, 1881. Consideration, $500.00. Signed A. P. More. Acknowledged before C. A. Thompson, notary public, 16th June, 1881.

Recorded June 27, 1881, by L. F. Easton, recorder of Ventura county, in book 10 of deeds, page 132 *et seq.*, in Ventura county records.

Remise, release, and forever quit-claim unto the said party of the second part, and to his heirs and assigns, forever, all that certain lot, piece, or parcel of land situated in said county of Ventura, State of California, and bounded and particularly described as follows, to wit: One hundred and sixty acres of tract known as tract "J," the same to be surveyed off by the county surveyor at the expense
251 of the said party of the second part. The said one hundred and sixty acres to be surveyed in one body immediately adjacent to the house in which said William Lineberger lives. The same being a part and parcel of the Santa Paula y Saticoy grant, excepting therefrom all oil, asphaltum, and other mineral substances, with full privileges of ingress and egress to and from the same, together with all, &c., &c.

A. P. Moore to Jno. A. Haralson. Deed 8.

Dated June 16th, 1881. Consideration, $1.00. Signed A. P. More. Acknowledged before C. A. Thompson, notary public, June 16th, 1881.

Recorded June 27th, 1881, by L. F. Easton, recorder of Ventura county, in book 10 of deeds, page 134 *et seq.*, in Ventura county records.

Remise, release, and forever quit-claim unto the said parties of the second part, and to their heirs and assigns, forever, all
252 that certain lot, piece, or parcel of land situate in the said

county of Ventura, State of California, and bounded and particularly described as follows, to wit: Bounded on the south by tract known as tract "B," on the west by the summit of the first ridge west of the Santa Paula Cañon, on the north by the north line of the Santa Paula y Saticoy grant, and on the east by the Santa Paula creek, containing about five hundred acres, the same being a part and parcel of the Santa Paula y Saticoy grant, as granted by Manuel Micheltoreno in eighteen hundred and forty-three, and as finally confirmed by the United States board of land commission[ers], together with all, &c., &c.

John A. Haralson & R. C. Carlton to A. P. Moore. Deed 9. Dated December 3d, 1881. Consideration, $1.00. Signed
253 John A. Haralson, R. C. Carlton. Acknowledged before L. C. McKeily, notary public, December 3d, 1881.

Recorded Dec. 10, 1881, by L. F. Eastin, recorder of Ventura county, in book 10 of deeds, page 392 *et seq.*, in Ventura county deeds.

Remise, release, and forever quit claim unto the said party of the second part, and to his heirs and assigns, forever, all that certain lot, piece, or parcel of land situate in the said county of Ventura, State of California, and bounded and particularly described as follows, to wit: Bounded on the south by tract known as tract "B," on the west by the summit of the first ridge west of Santa Paula Cañon, on the north by the north line of the Santa Paula y Saticoy grant, and on the east by the Santa Paula creek, containing about five hundred acres, the same being a part and parcel of the Santa Paula y Saticoy grant, as granted by Manuel Micheltoreno in eigh-
254 teen hundred and forty-three, and as finally confirmed by the United States board of land commissioners, together with all, &c., &c.

STATE OF CALIFORNIA, *County of Ventura:*

I, John T. Stow, county clerk and *ex-officio* county recorder in and for the county and State aforesaid, do hereby certify that the foregoing abstract of deeds numbered from 1 to 9, inclusive, is a correct abstract of all deeds to and from A. P. More affecting the Rancho Santa Paula y Saticoy, situated in the said county of Ventura, as the same appear in the transcribed records from the county of Santa Barbara and the records of my office.

Witness my hand and official seal, this 6th day of February, A. D. 1883.

JOHN T. STOW, *Recorder.*

Endorsed. Ex. B. L. S. Filed August 23, 1884, as of March 16, 1882, by order of judge. L. S. B. Sawyer, clerk.

255 G. G. Briggs & E. W. Haskell to Alexander P. More:

This indenture, made the 25th day of February, in the year of our Lord one thousand eight hundred and eighty-one, between G. G. Briggs, of the county of Yolo, State of California, and Edward W. Haskell, of the city and county of San Francisco, State of Cali-

fornia, parties of the first part, and Alexander P. More, of the city and county of San Francisco, State of California, party of the second part, witnesseth, that the said parties of the first part, for and in consideration of the sum of one dollar, gold coin, of the United States of America to them in hand paid by the said party of the second part, the receipt whereof is hereby ackowledged, do by these presents demise, release, and forever quit-claim unto the said party of the second part and to his heirs and assigns forever, all
256 that certain lot, piece, or parcel of land situated in the county of Ventura, State of California, and described as follows, to wit: All and singular the right, title, interest, and estate of said parties of the first part in and to all the lands and premises embraced within and covered by the grant known as the Santa Paula y Saticoy, granted to Manuel Jemino Casarini by Manuel Micheltoreno, then Governor of California, within the then Republic of Mexico; said grant is lying and situated within the county of Ventura, State of California. This conveyance, quit-claim deed, being of all our and each of our rights, titles, interests, and estates, jointly and severally, in and to the whole of the lands and premises embraced and covered by said grant, saving and excepting the four leagues thereof and thereon heretofore surveyed and patented by the United States [to] John P. Davidson, claimant: Together
257 with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof: To have and to hold all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to his heirs and assigns, forever.

In witness whereof, the said parties of the first part have hereunto set their hands and seals, the day and year first above written.

G. G. BRIGGS. [SEAL.]
E. W. HASKELL. [SEAL.]

Signed, sealed, and delivered in the presence—
SAM'L S. MURFEY.

STATE OF CALIFORNIA, }
City and County of San Francisco, } *ss:*

On the first day of March, A. D. one thousand eight hundred and eighty-one, before me, Sam'l S. Murfey, a notary public in and for the said city and county, residing therein, duly commissioned
258 and sworn, personally appeared E. W. Haskell, known to me to be the person described in and who executed, and whose name is subscribed to, the within and annexed instrument, and he acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[SEAL.] SAM'L S. MURFEY,
Notary Public.

STATE OF CALIFORNIA, }
City and County of San Francisco, } *ss:*

On the twenty-fifth day of February, A. D. one thousand eight hundred and eighty-one, before me, Sam'l S. Murfey, a notary public in and for the said city and county, residing therein, duly commissioned and sworn, personally appeared G. G. Briggs, known to me to be the person described in and who executed, and whose
259 name is subscribed to, the within and annexed instrument, and he acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[SEAL.] SAM'L S. MURFEY,
Notary Public.

Recorded at the request of Haralson & Carlton, March 4, 1881, at 23 minutes past 9 a. m.

L. F. EASTIN, *Recorder,*
By GEO. B. CRANDALL, *Deputy.*

STATE OF CALIFORNIA, }
County of Ventura, } *ss:*

RECORDER'S OFFICE.

I, L. F. Eastin, county clerk and *ex-officio* county recorder in and for said county, hereby certify that the annexed is a full, true, and correct copy of an original deed, G. G. Briggs & E. W. Haskell to Alexander P. More, recorded in this office, in book 9 of Deeds, page 409, *et seq.*

In witness whereof, I have hereunto set my hand and af-
260 fixed my official seal, this 6th day of January, A. D. 1883.

[SEAL.] L. F. EASTIN,
County Recorder,
By GEO. B. CRANDALL, *Deputy.*

Endorsed: Ex. C. L. S. Filed August 23d, 1884, as of March 16, 1883, by order of judge. L. S. B. Sawyer, clerk.

Plaintiffs offer in evidence a lease from Carpentier and Steinbach to Wm. Lineberger, marked Ex. D:

This indenture, made the 2d day of October, 1881, between Horace W. Carpentier and Rudolph Steinbach, the parties of the first part, and William Lineberger, the party of the second part, witnesseth: That the parties of the first part have *letten,* and by these presents do demise and to form let unto the party of the second part, and the party of the second part has hired and taken and by these presents does hire and take, of and from the parties of the first
261 part, all that certain piece or tract of land situate in the county of Ventura, being portion of the lands or rancho of Ex-Mission of San Buenaventura, bounded and described as follows, to wit: Tract "J" of said rancho, according to the map and survey of said Raneho Ex-Mission of San Buenaventura, as surveyed and subdivided by Ed. T. Hare, in September, 1875, reserving unto the parties of the first part the exclusive right to all oils, petroleum,

asphaltum, and other mineral substances, and the right to mine, dig for, work, control, and remove the same on and from the said demised premises, together with the right of way over and through any and all parts of said premises for the purpose of working said mines and of transporting said substances to a market, and the right to dispose of said substances and of transferring to the grantees thereof the same rights as are hereinabove reserved to the parties of the
262 first part, and reserving also the right of way for a road over and across said premises for the use of adjoining and other tenants of said rancho, with the appurtenances, for the term of one year from November 1st, 1880, to the 1st day of November, 1881, at the rent or sum of $150.00 dollars, payable in gold coin of the United States on or before the first day of June, 1881.

And it is hereby covenanted and agreed that if any rent shall be due and unpaid, or if default shall be made in any of the covenants herein contained, then it shall be lawful for the parties of the first part to re-enter the said premises and to remove all persons therefrom without any suit or proceeding whatever. And the party of the second part does hereby covenant, promise, and agree to pay to the parties of the first part the said rent in the manner hereinbefore specified, and not to let or underlet the whole or any part of
263 said premises without the written consent of the parties of the first part, and not to cut, or suffer to be cut, any timber or trees of any kind on said premises or on said rancho, and not to commit or suffer to be committed any waste on said premises; and that at the expiration of said term the party of the second part will quit and surrender the said premises in as good state and condition as reasonable use and wear thereof will permit.

And the parties of the first part covenant and agree that the party of the second part paying said rent and performing the covenants aforesaid shall and may peaceably and quietly have, hold, and enjoy the said premises for the term aforesaid, and that the parties of the first part shall and will defend the possession of the party of the second part for the term aforesaid against the lawful claims of all persons whomsoever, and will protect and defend the party
264 of the second part from and against any claim of rent for the said demised premises for and during said term made or to be made by any person or persons other than the parties of the first part.

In witness whereof, the said parties have hereunto set their hand, the day and year first above written.

R. STEINBACH.
H. W. CARPENTIER.

Witness to the signatures of the parties of the first part:
G. R. STEINBACH.

his
WILLIAM x LINEBERGER.
mark.

Witness to the signature of the part- of the second part:
THOS. A. LINN.
J. M. BROOKS.

STATE OF CALIFORNIA, }
City and County of San Francisco, } *ss:*

On the seventh day of December, A. D. one thousand eight hundred and eighty-two, before me, Sam'l S. Murfey, a notary public in and for said city and county, residing therein, duly commis-
265 sioned and sworn, personally appeared J. M. Brooks, personally known to me to be the same person whose name is subscribed to the annexed instrument as a witness thereto, who, being by me duly sworn, deposes and says: That he resides in San Buenaventura, State of California; that he was present and saw R. Steinbach and William Lineberger, who are known to him to be the same persons described in, whose names are subscribed to, and who executed the annexed instrument as parties thereto, sign, seal, and deliver the same; and that the said R. Steinbach and William Lineberger executed the same freely and voluntarily for the uses and purposes therein mentioned; and that he, the deponent, thereupon signed his name as subscribing witness thereto.

In witness whereof, I have hereunto set my hand and affixed my official seal, at my office, in the city and county of San Fran-
266 cisco, the day and year last above written.

[SEAL.] SAM'L S. MURFEY,
Notary Public.

STATE OF CALIFORNIA, }
City and County of San Francisco, } *ss:*

On this seventh day of December, A. D. one thousand eight hundred and eighty-two, before me, Sam'l S. Murfey, a notary public in and for said city and county, duly commissioned and sworn, personally apperred J. M. Brooks, personally known to me to be the same person, whose name is subscribed to the annexed instrument as a witness thereto, who, being by me duly sworn, did depose and say that he resides in San Buenaventura; that he was present and saw R. Steinbach, personally known to him to be same person described in and who executed by power of attorney from H. W. Carpentier, the annexed instrument, as the attorney in fact of W. W. Car-
267 pentier, named in the annexed instrument as the party executing the same by his said attorney, sign, seal, and deliver the same; and that the said R. Steinbach acknowledged in the presence of deponent that he executed the same freely and voluntarily, as and for the act and deed of the said H. W. Carpentier, and for the uses and purposes therein mentioned; and that he, the deponent, thereupon signed his name as a subscribing witness thereto.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[SEAL.] SAM'L S. MURFEY,
Notary Public.

It is hereby agreed by and between the parties to the within lease that the same be extended and remain in full force until Nov. 1st, 1882, provided said second party to this lease shall, on or be-
268 fore June 1st, 1882, have paid said first parties the sum of one

hundred and eighty dollars. The said second party complying with the conditions of the written lease to be permitted to remove his improvements from said demised premises.

Dec. 23d, 1881.

his
WILLIAM x LINEBERGER.
cross.

Witness to the signature & mark of Wm. Lineberger, the party of the second part hereto.

F. A. THOMPSON.
J. M. RROOKS.

STATE OF CALIFORNIA, }
City and County of San Franaisco, } ss:

On the seventh day of December, A. D. one thousand eight hundred and eighty-two, before me, Sam'l S. Murfey, a notary public in and for said city and county, residing therein, duly commissioned and sworn, personally appeared J. M. Brooks, personally known to me to be the same person whose name is subscribed to the
269 annexed instrument as a witness thereto, who being by me duly sworn, deposes and says that he resides in San Buenaventura, of the State of California: that he was present and saw William Lineberger, who is known to him to be the same person described or whose name is subscribed to and who executed the annexed instrument as a party thereto, sign, seal, and deliver the same, and that the said William Lineberger executed the same, freely and voluntarily, for the uses and purposes therein mentioned, and that he, the deponent, thereupon signed his name as subscribing witness thereto.

In witness whereof, I have hereunto set my hand and affixed my official seal, at my office in the city and county of San Francisco, the day and year last above written.

[SEAL.] SAM'L S. MURFEY,
Notary Public.

Endorsed: Ex. D. L. S. Filed August 23d, 1884, as of March 16, 1883. By order of judge; L. S. B. Sawyer, *judge.*

270 Mr. BROOKS. I would like the facts to appear in regard to this survey. They are, that the survey was made by Deputy Surveyor Terrill, Dec., 1860, of 17,733 acres, approved by Surveyor General Mandeville, Feb. 25th, 1861, advertised, ordered into court as petition of claimant, G. L. Brent, attorney, April 16th, 1861; plat filed in court May 9th, 1861; exception filed by claimants; order setting aside the survey; a second survey by Terrill, and containing about eleven leagues, with same boundaries as the east and west, but extending to Pasitas on the south and the Arroyo de Lusa and Sierra Azufre on the north; approved, *pro forma*, August 11th, 1864: decree of U. S. district court reversed by the circuit court, and Terrill's former survey approved by Surveyor General Mandeville

Feb. 25th, 1861, adopted; decree filed October 31st, 1864;
271 petition for leave to file a bill of review and order granting leave, but no bill was filed.

The foregoing statements of facts were by the court considered in evidence without the corrections of the abstract of contents being admitted by defendants.

Mr. MHOON. Plaintiff's counsel has put in a quit-claim deed from Briggs and Haskell to More, dated in 1881, as the origin of More's title to this land. I want to call you honor's attention to the deed of John P. Davidson to Levi Parsons, dated Jan. 10th, 1854; also the deed of Crockett and Baker and others to Levi Parsons, dated Oct. 25th, 1853, and the deed of Levi Parsons to Wallace More and Alex. P. More, dated Nov. 14th, 1857, all of which are in the abstract.

Testimony closed.

272 Endorsed: Reporters' notes. Filed August 23d, 1884, by order of judge as of March 16th, 1883. L. S. B. Sawyer, clerk.

273 At a stated term, to wit, the July term A. D. 1883, of the circut court of the United States of America of the ninth judicial circuit in and for the district of California, held at the court room in the city and county of San Francisco, on Wednesday, the 17th day of October, in the year of our Lord one thousand eight hundred and eighty-three.

Present: The Honorable Lorenzo Sawyer, circuit judge.

Order Allowing Appeal.

R. STEINBACH *et al.*
vs.
A. P. MORE *et al.* } No. 2666.

On motion of J. B. Mhoon, Esq., it is ordered that an appeal to the Supreme Court of the United States from the decision rendered and the decree filed and entered herein on the 12th day of October, A. D. 1883, being a day in the July term, A. D. 1883, of
274 said circuit court, as to the following named defendants: A. P. More, John A. Harralson, R. C. Carlton, William Lineberger, Mahlon Thorn, and Mary Thorn, be, and the same hereby is, allowed, and that a certified transcript of the pleadings, stipulations, and proceedings herein be forthwith transmitted to said Supreme Court of the United States, upon the appellants giving a bond in the sum of eight hundred dollars.

275 *Bond on Appeal.*

In the Supreme Court of the United States.

A. P. MORE *et al.*, Appellants,
vs.
RUDOLPH STEINBACH *et al.*, Respondents.

Know all men by these presents that we, A. P. More, Marsden

Kershaw, and Charles McLaughlin, are held and firmly bound unto Rudolph Steinbach, and Horace W. Carpentier in the sum of eight hundred dollars, to be paid to the said Rudolph Steinbach and Horace W. Carpentier, their executors or administrators, to which payment well and truly to be made we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated the 17th day of October, A. D. 1883.

276 Whereas the above-named A. P. More hath taken an appeal to the Supreme Court of the United States to reverse the decree rendered in the above action by the circuit court of the United States, ninth circuit, for the district of California: now, therefore, the condition of this obligation is such that if the above-named A. P. More shall prosecute his said appeal to effect and answer all costs and damages if he shall fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and virtue.

A. P. MORE. [L. S.]
CHAS. McLAUGHLIN. [L. S.]
MARSDEN KERSHAW. [L. S.]

UNITED STATES OF AMERICA, } ss:
District of California, }

Charles McLaughlin and Marsden Kershaw, being duly sworn, depose and says, and each for himself saith: That he is worth
277 eight hundred dollars over and above all his just debts and liabilities and exemptions, and that they are each residents and householders within the district.

CHAS. McLAUGHLIN.
MARSDEN KERSHAW.

Subscribed and sworn to, this 17th day of October, 1883, before me—

[SEAL.] SAM'L S. MURFEY,
Notary Public.

Endorsed: The form of the within bond, & the sufficiency of the sureties thereon, are hereby approved. (Signed) Lorenzo Sawyer, U. S. circuit judge. Filed October 20, 1883. L. S. B. Sawyer, clerk.

278 I, L. S. B. Sawyer, clerk of the circuit court of the United States of America of the ninth judicial district in and for the District of California, do hereby certify that the foregoing two hundred and seventy-seven written pages, including maps, numbered from 1 to 277, inclusive, are full, true, and correct transcript of the record, and of all proceedings in the therein-entitled cause on appeal from said circuit court to the Supreme Court of the United States.

Witness my hand and the seal of said circuit court, this 25th day of September, A. D. 1884.

[SEAL.] L. S. B. SAWYER, *Clerk.*

279 UNITED STATES OF AMERICA, *ss:*

To Rudolph Steinbach and Horace W. Carpentier, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States to be held at the city of Washington, in the District of Columbia, on the second Monday of October, A. D. 1884, pursuant to an order allowing an appeal from the final decree of the circuit court of the United States in and for the district of California, wherein Alexander P. More, John A. Harralson, H. C. Carlton, William Lineberger, Mahlon Thorne, and Mary Thorne are appellants, and you are respondents, to show cause, if any there be, why the decree in the said cause mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Lorenzo Sawyer, judge of the circuit court of the United States for the district of California, this 26th day of December, A. D. 1883, and of the Independence of the United States the 108th.

[SEAL.] LORENZO SAWYER,
U. S. Circuit Court Judge, Ninth Judicial Circuit.

280 [Endorsed:] No. 2666. United States Supreme Court. Alexander P. More *et al.*, appellants, *vs.* Rudolph Steinbach, *et al.*, respondents. Citation. Received a copy of the within citation, this 31st day of December, 1883. B. S. Brooks, sol'r for resp'd'ts, Filed December 31, 1883. L. S. B. Sawyer, clerk, by F. D. Munckton, d'p'y cl'k.

Endorsed on cover: California C. C. U. S. No. 1201. A. P. More, John A. Harralson, R. C. Carlton, William Lineberger, Mahlon Thorn, add Mary Thorn, appellants, *vs.* Rudolph Steinbach and Horace W. Carpentier. Filed 6th November, 1884.

27-40

R 15-1325

Office Supreme Court U. S.
FILED
FEB 11 1889
JAMES H. McKENNEY,
CLERK

No. 1,201.

In the Supreme Court

OF THE

UNITED STATES.

A. P. MORE ET AL.,
Appellants,

VS.

RUDOLPH STEINBACH ET AL.,
Respondents.

BRIEF FOR APPELLANTS.

GEORGE FLOURNOY AND
JOHN B. MHOON,
Attorneys for Appellants.

Filed this ..... *day of* ..... *1888.*

..... *Clerk.*

By ..... *Deputy Clerk.*

S. W. Raveley, Printer, 518 Clay St.

IN THE SUPREME COURT

OF THE

UNITED STATES.

A. P. MORE ET AL.,
Appellants,
vs.
RUDOLPH STEINBACH ET AL.,
Respondents.

No. 1,201.

BRIEF FOR APPELLANTS.

The matter in controversy is a large tract of land —seven leagues say—lying in Ventura County.

The respondents claim under a sale by the Govenor of California to one Jose Arnaz, June 8, 1846, (Trans., fol. 117) confirmed and patented to De Poli by the United States under the Act of March 3, 1851.

The appellants claim under grants made by the Governor of California to Jimeno Casarin in 1840 and 1843 (fols. 184 and 217) followed by a juridical survey and livery in deed. (Fol. 200.)

It was stipulated that the land was covered by the De Poli patent and also by the Casarin survey,

and that respondents duly succeeded to De Poli's rights and appellants to Casarin, whatever they respectively might be. (Fols. 113 and 173).

Thus is presented the ultimate question:

Which is the better title, the sale to Arnaz of July 8, 1846, followed by the United States patent, issued under the Act of March 3, 1851 to De Poli, or the complete Mexican transfer to Jimeno Casarin having its inception in the grants of 1840 and 1843?

Appellants make the points:

1st. That the sale to Arnaz was void.

2d. That the United States Patent to De Poli did not transfer title.

3d. That the title of Jimeno Casarin was complete and perfect under the Mexican system of conveying, and was therefore indefeasible under the treaty of cession.

4th. That even if the sale to Arnaz was valid his successors are estopped from denying Casarin's title by the assent of Anguisola to the juridical survey.

The United States patent to Davidson does not estop him or his assigns from claiming under their paramount Mexican title.

To show their title, respondents offered in evidence the patent issued by the United States to

Manuel A. R. de Poli, August 24, 1874. (Fol. 116.)

This patent recites that:

"Whereas, it appears from a duly authenticated transcript, filed in the General Land Office of the United States, that, pursuant to the provisions of the Act of Congress approved the 3d day of March, 1851, entitled 'An Act to ascertain and settle the private land claims in the State of California,' Manuel Antonio Rodriguez de Poli filed petition on the 11th day of November, 1852, with the Commissioners, to ascertain and settle the private land claims in the State of California, in which petition the said petitioner claimed the confirmation of his title to a tract of land about twelve leagues in extent, known as the Mission of San Buenaventura, said claim being founded on a sale made on the 8th day of June, A. D. 1846, to Jose Arnaz by Pio Pico, then Constitutional Governor of the State of California. * * * The land of which confirmation is made is situated in the County of Santa Barbara, and known as the Mission of San Buenaventura, and which were known as belonging to the Mission, including the Laguna Hueneme, el Palo Alto, Los de Siembres, de Santo Paula de la Mission, and all those lands which at the date of the grant in this case had not been granted by the Mexican Government. * * Now, know ye, That the United States of America,

in consideration of the premises, and pursuant to the provisions of the Act of Congress aforesaid, on the 3d day of March, 1851, and the legislation supplemental thereto, have given and granted, and by these presents do give and grant unto Manuel Antonio Rodriguez de Poli, and to his heirs, the tract of land embraced and described in the foregoing survey, but *with the stipulation that, by virtue of the fifteenth Section of the said Act, neither the confirmation of this claim nor the patent shall affect the interest of third persons.*"

The italics are ours.

Appellants objected to the introduction of this paper as being irrelevant and incompetent. The patent was admitted, subject to the objection. We thought, and still think, the objection good.

It appears from the answer that appellants claim to the premises is founded on a title, complete and perfect in all respects, derived from Mexico long prior to the patent offered, to the treaty of cession to the United States, and to the sale to Arnaz, recited in the patent; that at the date of the treaty of cession, to-wit: July 2, 1848, Jimeno, under whom these appellants claim, had, as was said in *Bissell* vs. *Henshaw* (1 Sawyer, p. 570), "a complete and in every particular perfect title to a specific, finally segregated and located tract of land, with all the formalities, including the act of juridi-

cal possession," and was a "third person," as that term was used in the Act of Congress referred to in the patent.

If Jimeno and his grantees are "third persons," the respondents have stipulated in the document offered that it shall not affect appellants' interest. How, then, can they offer it to divest appellants of all interest?

"'Third persons' are those whose title accrued before the duty of the Government (United States) and its rights under the treaty attached."

Teschemacher *vs.* Thompson, 18 Cal., 27.
Beard *vs.* Federy, 3 Wal., 493.
Meader *vs.* Norton, 11 Wal., 457.

It also appears from the face of the patent that it issued on a sale of Mission lands made by Pico, June 8, 1846, and no authority is shown in Pico to sell, and this Court will take notice that said sale was void.

United States *vs.* Workman, 1 Wal., 745.
United States *vs.* Carey Jones, 1 Wal., 766.

It also appears from the face of the patent that it was founded on a Mexican title, and as appellants claim under a Mexican title a patent from the United States is inadmissible as between such claimants.

United States *vs.* White, 23 How., 249.

For these reasons we think the objection should have been sustained and the patent excluded.

Respondents also offered in evidence a patent from the United States to J. P. Davidson and others, dated the 22d day of April, 1872.

To the introduction of this paper appellants objected, because they, nor either of them, claimed under it, and that it did not include any of the lands referred to in their, respondents', bill or appellants' answer. It would seem to be impossible to have offered any evidence more irrelevant.

I.

If the Court be of the opinion that the patent to De Poli is admissible in evidence we still claim that it did not vest title in the patentee, either as against

1st. *Claimants under a complete Mexican title, or*

2d. *The United States.*

Our first proposition is self-evident. If Mexico had invested Jimeno with a complete title she had no title to cede to the United States in 1848, and did, in fact, only cede as to this parcel of land territorial sovereignity. The United States could not convey by its patent, or otherwise, that which she never had.

Secondly. If the sale to Jose Arnaz was void, the patent issued thereon is clearly void. The United States can only patent its domain and con-

vey its territory pursuant to law. Any acts of even the highest officers of the United States, contrary to law, will not estop the Government from denying that act.

Story on Agency, Sec. a, 307.
Hunter *vs.* U. S., 5 Pet., 188.

II.

The appellants' title to the land described in the answer was complete and perfect in all respects prior to the cession of California to the United States; and the United States cannot, either by an Act of Congress, or patent of the Executive, or decree of the Judicial Department, in contravention of that treaty, divest the appellants.

As to the Mexican title. On the 8th of June, 1840, Jimeno presented his petition to Alvarado praying for a grant of certain lands, including that formerly granted to Ortega in 1834, known as the Potrero de Santa Paula, as Ortega had transferred to him, Jimeno, his title papers therefor. He also asked for those places known by the names of Saticoy, La Sienega, El Rio and La Sierra, with the Lomarias of Santa Paula and its Pocitas, as pointed out on the map.

On the 28th of April, 1840, Alvarado made an order on the petition declaring Jimeno "to be the owner in fee of all the above mentioned lands called Saticoy, up to the small hills; the Potrero

of Santa Paula, up to the Arroya de Mupu and the Mountains La Sierra ; the Lomarias of Santa Paula and the Pocitas," and referred the Expediente to the Departmental Assembly for approval.

On the 22d of May, 1840, the Departmental Assembly referred the matter to the Committee on Agriculture, which Committee, on the 26th of May sent it back recommending the grant of Santa Paula y Saticory, and on the same day, 26th May, the Departmental Assembly approved the grant of "Santa Paula y Saticory," and June 10th, 1840, Alvarado ordered the title papers (grant) delivered.

On the 1st of April, 1843, Micheltorena, being invested with supreme power under the order of the Supreme Government of the 11th of February, 1841, approved the concessions to Jimeno according to the extent indicated by the map.

The Ortega grant transferred to Jimeno was made in 1834 ; Jimeno went in possession under his own grant in 1840. Both these titles were recorded in the book of adjudicated lands.

In November, 1847, Pablo de la Guerra was 1st Alcalde of the District in which these lands are situated.

On the 11th of November, 1847, Jimeno, petitioned the Alcalde for juridical possession. On the 12th, notice that the survey would be made and possession given on the 17th was served on

the neighboring owners. On the 17th, the neighbors appeared *on the Ranch*, among them "Don Manuel Anguisola, in charge of San Buenaventura." The Alcalde then appointed two citizens who, "having been first accepted," were sworn, and proceeded to make the survey in the field by courses and distances.

The field notes of this survey were signed by all the parties including Anguisola, and were archived with the Alcalde.

The answer, in its description of the land claimed by appellants, is a literal copy of the field notes of his survey. (Fols. 22 and 200.)

We submit, without fear of contradiction, that in no case in California, Florida, Louisiana or Texas has any Mexican or Spanish grantee shown a more perfect and complete title than the grantee in the case at bar. And we confidently claim that unless the fact that the juridical survey being made after July 6, 1846, vitiates said survey, Jimeno's title to the land described in that survey was in all respects perfect and complete.

Minturn *vs* Brower, 24 Cal., 645.
Schmitt *vs.* Giovanari, 43 Cal., 617.
Malarin *vs.* U. S., 1 Wal., 282.
U. S. *vs.* Castro, 5 Sawyer, 628.
Rancho Corte de Madera del Presidio.
Copp's Pub. Land Laws, p. 532.

That Pablo de la Guerra had jurisdiction to make the survey cannot be doubted.

Cahos *vs.* Raisin, 3 Cal., 443.
White *vs.* Moses, 21 Cal., 34.
Merryman *vs.* Bourne, 9 Wal., 602.
Palmer *vs.* Low, 2 Sawyer, 250.
Pico *vs.* U. S., 1 Hoff. R., 279.

"The laws of a conquered or ceded country remain in force till altered by the new sovereign."

Mitchell *vs.* U. S., 9 Pet., 749.

Now, if we have shown a perfect title from Mexico in Jimeno prior to the treaty of cession, the United States must protect it. The treaty of cession stipulated for such protection, and as to perfect titles so acquired, they could not be lawfully required to be presented for adjudication under the act of 1851.

Beard *vs.* Federy, 3 Wal., 490.

The treaty was the law of the title.

There can be no estoppel by the patent to Davidson as in favor of respondents, for the reason that there could be none against them arising out of a proceeding to which neither they nor their grantor was a party.

Neither the U. S. patent to De Poli nor the U. S. patent to Davidson can affect the rights of the other party in a suit for said claims under Mexican

grants, because a U. S. patent on a Mexican grant is a quit claim deed from the Government, and does not enlarge or abridge pre-existing titles.

U. S. *vs.* Aredondo, 6 Pet., 736.
New Orleans *vs.* De Armas, 9 Pet., 223.
Langdean *vs.* Hanes, 21 Wal., 521.
Nelson *vs.* Moon, 3 McLean, 319.
Louisiana Survey Act of 1831 (6th Sec.), 4th U. S. Stat. at Large, p. 492.
Private Land Claims Act (13th Sec.), 9th U. S. Stat. at Large, p. 630.

The appellants are not estopped by a quit claim deed under which they do not claim.

Bigelow on Estop. 274, *citing*
Kidder *vs.* Blaisdel, 45 Me., 461.

Under the rule in Cassidy *vs.* Carr, 48 Cal., 339, and Boyles *vs.* Hinds, 2 Sawy., if these respondents derived their title by grant from the United States, as, for instance, under the pre-emption or other valid act by which the United States disposes of *its* lands, then the patent to Davidson would estop these appellants for the sole reason that appellants would have litigated their rights in a proceeding to which respondents' grantor was a party, and the decree in that case would be an estoppel on both parties to this suit. The case at bar presents no such facts. The United States is not respondents' grantor, nor is it appellants'

grantor. It never had the title to the land described in either patent. If so, both patents are void, for under the act of 1851 the United States could issue patents only on lands the right to which came from Mexico to claimants.

The land in dispute is embraced in the De Poli patent, that patent issued in a proceeding to which appellants (and their grantors) were not parties. By that patent the United States declared that it had no title or rights to the land therein described and that as against the United States De Poli had derived title from Mexico.

By its patent to Davidson the United States did not undertake to do more than segregate Davidson's land from the *public domain*. It had no power to establish lines which would determine the rights of private parties *inter sese*, because those private parties were not parties in the proceedings under which such patents issued. The land in dispute here, never was public domain. It either belonged to De Poli or Jimeno at the time of the cession to the United States, and nothing the United States has since done, or can now do, should estop those who have succeeded to De Poli or Jimeno from showing to whom it did then belong.

"In such a case the United States has no interest."

U. S. *vs.* White, 23 Howard, 249.

As was said in Bissell *vs.* Henshaw, 1 Sawyer, at page 583.

"As if aware of the confusion which must follow such proceedings, the Act of 1851 provides expressly that neither the final decree of the Board of Commissioners, or of the District of the Supreme Court, or any patent to be issued under that Act, shall be conclusive against any one but the claimants and the United States. * * *

Rodrigues *vs.* U. S., 1 Wal., 588.

If there were a contest between the United States and either of these patentees, or a grantee of the United States and either of the patentees, the patent would clearly be conclusive. But how can such a rule apply when both parties claim the land under a title paramount to the United States?

The land in question does not belong to the United States. It is the property of either appellants or respondents. The title came from Mexico to its present owners—not from the United States. The determination of the suit will depend upon the question: To whom did Mexico convey? If Mexico conveyed the property to appellants, the United States cannot convey it to respondents; and, on the other hand, if she conveyed it to respondents, the United States cannot convey it to appellants. The United States has, by its

Executive Department, segregated it from the public domain, and it now remains for the Judicial Department of the Government, as the last duty of the Government under the treaty, to determine to whom Mexico did convey, and to then protect the Mexican grantee in his property.

III.

But if the Pico sale, upon which the De Poli patent issued, is valid, and the juridical survey of November, 1847, *is void, the respondents are estopped, from now objecting to the lines then established and agreed upon by Anguisola, in charge of the Mission.*

The recital in the juridical survey, that the neighboring owners were present and consented to that survey and the lines then established, and that Anguisola was then in charge of the Mission lands, and was present and satisfied with said lines, is presumptively true.

California Code of Civil Procedure, § 1963, Subd. 15.

Stinson *vs.* Hewkins, 13 Fed. Rap., 833.

Respondents are estopped by their assent from denying the division line between themselves and defendants.

Stow *vs.* U. S., 19 Wal., 13.

The line established by agreement controls as between the parties or their privies.

Brown Ex'tr's *vs.* Chappell, 12 Wal., 681.
Bigelow on Estop (3d Ed.), 525.
Spring *vs.* Hewston, 52 Cal., 442.
Carpentier *vs.* Thurston, 24 Cal., 281.
Alviso *vs.* U. S., 8 Wal., 337.
Higueaes *vs.* U. S., 5 Wal., 827.
Fossatt's Case, 2 Wal., 715.

"Acquiescence in error takes away the right of objecting to it."

California Civil Code, § 3516.

We respectfully claim—

1. That respondents have shown no title, his patent being incompetent evidence of title in this suit.

2. That they have not alleged or shown possession.

3. That the patent to Davidson is irrelevant and inadmissable in this suit.

4. That appellants have shown possession since 1840.

5. That appellants have shown a perfect title under the grant to Jimeno.

6. That the Alcalde's survey of 1847 was duly authorized.

7. That the recitals in the Alcalde's juridical record, are presumptively true.

8. That the juridical survey made in the presence and with the consent of the neighboring owners estops them in this case.

9. That a U. S. patent issued on a Mexican grant is a quit claim deed, and does not affect pre-existing titles.

10. That a U. S. patent issued on a Mexican grant does not estop parties claiming under titles paramount to the United States.

And therefore ask for judgment.

GEORGE FLOURNOY and
JOHN B. MHOON,
Attorneys for Appellants.

4-70

Office Supreme Court U. S.
FILED
FEB 25 1888
JAMES H. McKENNEY,
CLERK.

No......

IN THE

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A. P. MORE ET AL.,
Appellants,

vs.

RUDOLPH STEINBACH ET AL.,
Appellees.

Brief for Appellees.

E. S. PILLSBURY,
Attorney for Appellees.

Filed this.....*day of*.....*1888.*

.....*Clerk,*

By.....*Deputy Clerk.*

SAN FRANCISCO:
H. S. CROCKER & CO., PRINTERS, 215-219 BUSH STREET.

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"*Interest reipublicæ ut finis sit litium.*"

"It is this unassailable character which gives to it (the Patent of the United States) its chief, indeed its only value, as a means of quieting its possessor in the enjoyment of the lands it embraces."—*104 U. S. 641.*

"Whoever holds it must recover against those who have only unrealized hopes to obtain it, or claims which it is the exclusive province of a Court of equity to enforce."—*106 U. S. 452.*

In the Supreme Court of the United States.

A. P. MORE ET AL.,
Appellants,
vs.
RUDOLPH STEINBACH ET AL.,
Appellees.

No.

BRIEF OF APPELLEES.

This is a bill in equity, brought by the appellees (plaintiffs) against the appellants (defendants), to determine the adverse claims of the appellants to the land described in the complaint, which is Tract No. 1 of the Rancho "Ex-Mission of San Buenaventura," as the same is described and bounded in the patent of the United States, issued to Manuel Antonio Rodriguez de Poli, on the 24th day of August, 1874. It is conceded that De Poli's title to said tract, and all his rights under said patent duly passed to appellees, by proper conveyances, prior to the bringing of the suit (Trans., fol. 113).

QUESTION INVOLVED.

The only question presented is this: Can a grantee of an imperfect Mexican grant—one as to which no survey had been made or juridical possession delivered*—formally present his claim to the Board of Land

*We say: "As to which no survey had been made or juridical possession delivered," because, as will appear further on, these pretended acts were not performed by the so-called Mexican officials until the 17th and 18th days of November, 1847, while their *power* to perform them terminated July 7th, 1846 (Appellants' Brief, pp. 8–9; Transcript, fols. 196, 203).

Commissioners, under the Act of March 3d, 1851, entitled "An Act to ascertain and settle the private land claims, in the State of California," procure a decree of confirmation to be made by the Board, a final survey to be completed and approved, a patent of the United States to be issued upon that survey, accept the said patent, and then, years afterwards, turn around and claim that the decree of confirmation, the final survey and the patent did not embrace *all* the land which he should have had under the *grant*, and, thereupon, claim, as against another patentee of the United States, the pretended excess alleged to have been excluded from the decree of confirmation, the final survey and the patent? It is impossible to answer this question more conclusively than by asking it. Its simple statement is the strongest argument that can be made in favor of the appellees.

I.

Even with respect to a *perfect* Mexican grant this precise question has been decisively answered in the negative by the Supreme Court of the State of California, in

Cassidy v. *Carr*, 48 Cal., 339,

and by the Circuit Court of the United States, for the District of California, in

Boyle v. *Hinds*, 2 Sawyer, 527.

This was but carrying out what had been said in the earlier case of

Minturn v. *Brower*, 24 Cal., 664,

where the court used the following language:

"That the citizen of the Mexican Republic who was seized in fee simple absolute of lands in California, at the date of treaty, and who thereafter elected, according to its provisions, to become a citizen of the United States, could, if he chose to do so, have submitted his title and claim to such lands to be passed upon by the Commissioners and the proper Courts, under the Act of 1851, *we have no doubt.*"

Teschemacher v. *Thompson*, 18 Cal., 25–26,

is but another way of stating the same proposition. The court there say (per Field, C. J.):

"By the Act of March 3d, 1851, the Government has established a tribunal for the investigation of the validity of the titles asserted to have existed previous to the cession; required evidence to be presented respecting the same; designated law officers to appear and litigate the matter on behalf of the United States; authorized appeals, first to the District and then to the Supreme Court; and appointed surveyors to survey and measure off the land, when once the title has been recognized and confirmed. By the various proceedings required, numerous securities are afforded against imposition and fraud. As the last act in the series of proceedings, a patent is to issue to the claimant. This instrument is not only the deed of the United States, but it is a solemn record of the Government, of its action and judgment with respect to the title of the claimant existing at the date of the cession. By it the sovereign power, which alone could determine the matter, declares that the previous grant was genuine; that the claim under it was valid and entitled to recognition and confirmation by the law of nations and the stipulations of the treaty; and that the grant was located, or might have been located by the former Government, *and is correctly located* by the new Government so as to embrace the premises as they are surveyed and described. Whilst this declaration remains of record, the Government itself cannot question its verity, nor can parties claiming through the Government by title subsequent."

This language is quoted and approved in

Leese v. *Clark*, 20 Cal., 423–424,

Field, C. J., delivering the opinion in the case.

To the same effect is

Leese v. *Clark*, 18 Cal., 571–572.

In delivering the opinion of the court there, Field C. J., says:

"But the patent has a still further operation and effect. It is not merely a deed of the United States, conveying whatever interest they may have held in the premises at the institution of proceedings before the Land Commission. It is also a record of the Government, showing its action and judgment with respect to the title of the patentees at the date of the cession. By the treaty of Guadalupe Hidalgo, the United States in effect stipulated for the protection of the rights of property of the inhabitants of the ceded territory. Independent of treaty stipulations, the inhabitants were entitled to such protection by the law of nations. The obligation thus devolved upon the Government, upon the acquisition of the country, was political in its character, and to be executed in such manner as the Government might judge expedient. To execute this obligation necessarily required an inquiry into the nature and *extent* of the claims asserted to property at the date of the treaty. This inquiry involved *something more* than an investigation into the genuineness of the title papers of the patentees; it is also involved an ascertainment of the *quantity, location and boundary* of the property claimed. Thus, in the case of the *United States* v. *Fossatt*, (21 Howard, 449) Mr. Justice Campbell, in delivering the opinion of the Supreme Court, said: 'In affirming a claim to land under a Spanish or Mexican grant to be valid within the law of nations, the stipulations of the treaty of Guadalupe Hidalgo, and the usages of those Governments, we imply *something more* than that certain papers are genuine, legal and translative of property. We affirm that ownership and possession of land of *definite boundaries* rightfully attach to the grantee.' By the Act of March 3d, 1851, the Government provided the means for the ascertainment of the character and extent of the titles alleged to have existed previous to the cession. It established a tribunal before which all claims to lands were to be investigated; prescribed rules for its action; required evidence to be presented

respecting the claims; authorized appeals from the decisions of the tribunal, first to the District and then to the Supreme Court, and appointed officers to survey and measure off the land when the validity of the claims had been finally affirmed. Informed by the proceedings thus had before its tribunals and officers, the Government regulated its conduct, and to the successful claimant issued its patent. This instrument, as we have stated, is the record of the Government upon the title of the patentee to the land described therein, declaring the validity of that title and that it rightfully attaches to the land. Upon all the matters of fact and law essential to authorize its issuance, it imports absolute verity; and it can only be vacated and set aside by direct proceedings instituted by the Government, or by parties acting in the name and by the authority of the Government. Until thus vacated, it is conclusive, not only as between the patentee and the government, but between parties claiming in privity with either by title subsequent."

The decisions of this Honorable Court are to the same effect. They have uniformly held that the final decree, giving the location and boundaries of the grant confirmed, is conclusive not only of the question of *title*, but also as to the *location and boundaries* which it specifies. Thus, in

United States v. *Halleck*, 1 Wall., 455–6,

the Court say:

"The decree in this case is plain, and admits of only one construction: the object of the appellants is to change the meaning of its language, by showing that the Commissioners were ignorant of the true course and direction of the American River, and therefore intended different lines from those they specifically declared, and that they could not have intended the eastern line to run as directed, in disregard of what is asserted to be the true position of the 'lomerias.' The answer to all efforts of this kind is, that the decree is a finality, not only on the question of *title*, but as to the *boundaries* which it specifies. If erroneous in *either* particular, the remedy was by appeal; but the appeal having been withdrawn by the government, the question of its correctness is *forever closed*."

Affirming this case, in

United States v. *Billing*, 2 Wall., 448,

the Court say:

"In the case of *United States* v. *Halleck*, it is held that 'the decree is a finality, not only as to the question of *title* but as to the *boundaries* which it specifies.' If erroneous in *either* particular, the remedy was by appeal; but the appeal having been withdrawn by the government, the question of its correctness is *forever closed*. In *The Fossatt Case*, the same doctrine was fully established * * * * * The decree being itself clear and precise, does not refer to the rough daubs called diseños, or to the record of juridical possession for the purpose of rendering *uncertain* that which *the decree made certain*."

To the same effect is

Higueras v. *United States*, 5 Wall., 827.

The principle that the decree, survey and patent are as conclusive upon the *location and extent* of the grant as upon its *validity*, is expressed with great clearness and force in

Beard v. *Federy*, 3 Wall., 489, 492–3.

At page 489, the court say:

"The board having acquired jurisdiction, the validity of the claim presented, and whether it was entitled to confirmation, were matters for it to determine, and its decision, however erroneous, cannot be collaterally assailed on the ground that it was rendered upon insufficient evidence. The rule which applies to the judgments of other inferior tribunals applies here,—that when it has once acquired jurisdiction its subsequent proceedings cannot be collaterally questioned for mere error or irregularity."

At pages 492–3, the court say:

"The obligation to which the United States thus succeeded, was of course political in its character, and to be discharged in such manner and on such terms as they might judge expedient. By the Act of March 3d, 1851, they have declared the manner and the terms on which they will discharge this obligation. They have there established a special tribunal, before which all claims to land are to be investigated; required evidence to be presented respecting the claims; appointed law officers to appear and contest them on behalf of the government; authorized appeals from the decisions of the tribunal, first to the District and then to the Supreme Court; and designated officers to survey and measure off the land when the validity of the claims is finally determined. When informed, by the action of its tribunals and officers, that a claim asserted is valid and entitled to recognition, the government acts and issues its patent to the claimant. This instrument is, therefore, record evidence of the action of the government upon the title of the claimant. By it the government declares that the claim asserted was valid under the laws of Mexico; that it was entitled to recognition and protection by the stipulations of the treaty, and might have been located under the former government, *and is correctly located now*, so as to embrace the premises as they are surveyed and described. As against the government, this record, so long as it remains unvacated, is conclusive. And it is equally conclusive against parties claiming under the government by title subsequent. It is in this effect of the patent as a record of the government that its security and protection chiefly lie. If parties asserting interests in lands acquired since the acquisition of the country could deny and controvert this record, and compel the patentee, in every suit for his land, to establish the validity of his claim, his right to its confirmation, and the correctness of the action of the tribunals and officers of the United States in the *location* of the same, the patent would fail to be, as it was intended it should be, an instrument of quiet and security to its possessor. The patentee would find his title recognized in one suit and rejected in another, and if his *title* were maintained, he would find his land *located in as many different places as the varying prejudices, interests, or notions of justice of witnesses and jurymen might suggest.* Every fact upon which the decree and patent rest would be open to contestation. The intruder, resting solely upon his possession, might insist that the original claim was invalid, *or was not properly located*, and, therefore, he could not be disturbed by the patentee. No construction which will lead to such results can be given to the fifteenth section. The term "third persons," as there used, does not embrace all persons other than the

United States and the claimants, but only those who hold superior titles, such as will enable them to resist successfully any action of the government in disposing of the property."

. *Beard* v. *Federy*, is affirmed in

Smelting Co. v. *Kemp*, 104 U. S., 641,

a case which states, with great power, the conclusive effect to be attributed to patents of the United States. See, also,

Moore v. *Wilkinson*, 13 Cal., 478, and
Biddle Boggs v. *Merced M. Co.*, 14 Cal., 279, affirmed in *Smelting Co.* v. *Kemp*.

This last case is, in turn, affirmed in

Steel v. *Smelting Co.*, 106 U. S., 454.

See, also,

United States v. *Sepulveda*, 1 Wall., 104;
Manning v. *San Jacinto Tin Co.*, 9 Fed. Rep., 726.

Even in *direct attacks* upon patents, by bill in equity filed by the United States, the same doctrine has been asserted.

Maxwell Land-Grant Case, 121 U. S., 325;
Same Case on Rehearing, 122 U. S., 365.

So, too, in

United States v. *Hancock*, 30 Fed. Rep., 851,

(per Sawyer and Hoffman, JJ.) it was held, upon *direct* attack, that a decree of confirmation, and the survey and patent were not void, although they embraced "very nearly seven Mexican leagues, and the *grant* was for one square league and no more." At page 853, the court say :

"No jurisdiction has been conferred on this court to correct any alleged errors on the part of the land department, committed in the final survey and location of Mexican land grants in California. *U. S.* v. *Flint*, 4 Sawyer, 61, per Mr. Justice Field, affirmed in 98 U. S., 61, 66; *U. S.* v. *San Jacinto Tin Co.*, 10 Sawyer, 643, 23 Fed. Rep., 279."

In regard to surveys made under the jurisdiction of the *Land Department*, and not coming within the Act of June 14th, 1860, the question as to whether the survey, in fact, conforms to the claim confirmed, or not, is one to be determined by the *Department*, and not by the courts.

United States v. *Flint*, 4 Saw., 61 (per Mr. Justice Field);
Manning v. *San Jacinto Tin Co.*, 9 Fed. Rep., 734;
Beard v. *Federy*, 3 Wall., 492–3;
United States v. *Sepulveda*, 1 Wall, 108–9.

Or, as expressed by the Circuit Court for California :

"It has frequently been held by the Supreme Court 'that the decision of a proper officer of the land department is in the nature of a *judicial determination* of the matter in dispute;' *Vance* v. *Burbank*, 101 U. S., 514."

United States v. *Hancock*, 30 Fed. Rep., 853.

In regard to surveys approved by the *District Court*, under the Act of June 14th, 1860, the Act itself, by Sec. 5, gave to the plat and survey "the same effect and validity in law as if a patent for the land so surveyed had been issued by the United States."

12 U. S. Statutes, p. 34.

Under *both* systems, therefore, and whether jurisdiction to finally approve the survey was vested in the Land Department, or in the District Court, *each* was a special tribunal, specially empowered to fix upon the surface of the earth the *extent, location and boundaries* of the claim, and to anchor and attach the floating and indefinite grant to a specific tract. The decisions of these tribunals, thus acting, could not be collaterally assailed. Like other judgments, they could only be attacked directly, by appeal, or, in a proper case, by bill in equity, in the name of the United States, for fraud. A striking illustration of this is shown by the rule, well settled in this Court, that the District Court, in the exercise of its *general* jurisdiction, could not modify or set aside the survey which it had finally approved, by virtue of its *special* jurisdiction under the Act of June 14th, 1860. In other words, the decision approving the survey, under the last-mentioned act, was a *judgment*, and could only be reviewed in the same manner and under like proceedings as other judgments might be.

Thus, as said in

Manning v. *San Jacinto Tin Co.*, 9 Fed. Rep., 734:

"The government, to carry out the provisions of the treaty, committed this whole matter to other and special tribunals, except so far as brought before the ordinary courts for review or appeal. The Circuit Courts, in the exercise of their general or ordinary jurisdiction, had nothing to do with it."

And, at page 733:

"The genuineness of the grant and its '*correct location*' were the very questions in issue and determined in the proceedings for confirmation and segregation under the acts of congress, and these questions cannot be re-examined in other tribunals even upon a bill filed by the United States, as was held in *U. S.* v. *Flint; U. S.* v. *Throckmorton;* and *U. S.* v. *Carpentier*, 4 Saw., 42, affirmed in 98 U. S., 61."

The italics are those of the court.

Again, at page 737:

"The *location* of the grant was in the nature of a proceeding *in rem*, and the party had a right under the statute to file objections."

As to the *appellants*, the location of their grant was not only a judgment *in rem*, but *in personam;* for the owners of the grant (among them *A. P. More himself*) appeared in court, excepted to the original or Terrell survey (Trans. fols. 70–73), procured a new survey to be ordered and made (Trans. fols. 84, 85), which survey was approved "*pro forma* for the purpose of expediting the final decision of the matter in controversy before the appellate court," appeal therefrom being allowed to the United States (Trans. fols. 104–5). This latter "*pro forma*" survey was, on the appeal of the government, vacated by the Circuit Court, and the original or

Terrell survey confirmed (Trans. fols. 155–6). And, as if not content with appearing in the proceedings themselves leading up to their patent, the owners of the grant (appellant A. P. More among the number) filed a petition for leave to file a bill of review as to the original or Terrell survey, in which petition the history of the grant and survey is rehearsed, and in the body of which petition the appellant, A. P. More, is spoken of, by the owners of the grant, as "their vendee, A. P. More, now one of the owners of said ranch" (Trans. fol. 90). And in the verification to this petition, made by the appellant, A. P. More himself, he states "that affiant and his brother, T. W. More, purchased said ranch of petitioners, in different parcels, in the year 1857 and 1859, since which time in his own right and by authority of said petitioners, affiant *has assumed control of said cause*" (Trans. fols. 94–5). This petition was made and filed October 4th, 1862 (Trans. fol. 95). The date "1882," given for the verification, is a clerical error for 1862, as shown by the endorsement of filing in the next line. The grant had been presented by the petitioners John P. Davidson et al., to the Board of Land Commissioners for confirmation, February 3d, 1853 (Trans. fol. 152). It had been confirmed by the Land Commissioners, May 22d, 1855 (Trans. fol. 153), and had become final at the December term, 1857, by dismissal of the appeal (Trans. fols. 153–4). The petition was granted and leave to file the bill of review given (Trans. fol. 96). No bill of review was ever in

fact filed. It will thus be seen that, almost from the inception of the proceedings which led up to the confirmation of the grant and the issuance of the patent, the appellant, A. P. More, appeared and participated in every possible way. And he not only appeared and participated in the proceedings leading up to the patent itself, but he made an unusual and extraordinary attack upon the survey by efforts at independent judicial review. Certainly, it cannot be pretended that appellants have not had their day (or rather their years) in court. If after all these proceedings, and this obstinate and protracted litigation, the decree of confirmation, the survey and the patent are to be deemed not to conclusively establish, as against appellants, the *extent, location and boundaries* of their grant, then there is an end of all judgments and the doctrine of *res judicata* becomes a farce. If *appellants* can now attack and set aside this series of judgments, then the Act of March 3d, 1851, instead of being entitled "An Act to *ascertain and settle* the private land claims, in the State of California," should have been entitled "An Act to *cloud and unsettle* them."

II.

Appellants feel the force of these established principles. But they seek to escape from them by the declaration that they are not now claiming under the decree of confirmation, the survey or the patent for the rancho "Santa Paula y Saticoy;" that they neither asked nor

obtained anything from the United States; that they do not hold under, and are not in privity with it or its grantees; but that, on the contrary, they hold by a Mexican grant, *perfect and complete prior to the political succession.*

No pretension can be more erroneous and misleading, whether in point of fact or of law. A synopsis of appellants' title will show this.

The appellants, other than A. P. More, claim specific parcels of the premises in controversy, "under and by virtue of conveyances therefor" from him (Answer of appellants, Trans. fols. 45, 46, 47). They have, therefore, whatever rights he has and no more. Appellant More, in his answer, states that he claims the premises described in the complaint "under and by virtue of a grant duly made by Governor Alvarado to Manuel Jimeno on the 28th of April, 1840; that said grant was duly approved by the Departmental Assembly on the 26th day of May, 1840; that thereafter, on the 1st day of April, 1843, Micheltorena, then Governor and Political Chief of the Department of the Californias, ratified and confirmed said grant to the extent and boundaries hereinbefore set out;" that juridical possession was delivered "on the 17th and 18th of November, 1847;" that "*said grant was finally confirmed to be a valid grant under the Act of Congress, approved March 3d, 1857, entitled 'An Act to ascertain and settle the private land claims in California,' on the 4th day of March, 1858;*" that appellant, More, "has succeeded by proper

mesne conveyances to all the rights, title, and interest of said Jimeno in and to said premises granted, confirmed and surveyed as aforesaid, and now remains the owner thereof" (Trans. fols. 25–27). The grant to Jimeno by Alvarado, dated April 28, 1840, is contained in the Transcript at page 54, folios 190–193. The grant is of "the place known by the name of Santa Paula y Saticoy, including the Lomerias of Santa Paula and Las Pocitas, the boundaries being from the Arroyo Mupu on the east, to the Serritos on the west, and from the Sierra on the north, to the Pocitas on the south, according to the diseño." (Trans. p. 54, fols. 190–191). The third condition of the grant is: "The land now granted is of the extent of four square leagues, more or less, as shown by the map which accompanies the expediente. The Judge who shall give him possession shall have it measured in conformity with the evidence, the surplus that results remaining in the nation for its proper use." (Trans. p. 54, fol. 192). Whatever right and title Jimeno acquired in and to the premises in controversy, under and by virtue of the grant and juridical possession, was conveyed, October 11th, 1852, to J. P. Davidson, S. M. Tibbits, J. B. Crockett, E. D. Baker and James Blair, and subsequently, by the last named grantees, to appellants (Stipulation in Trans. pp. 48–49, fol. 174). Under a stipulation to that effect (Trans. fol. 218), there were read in evidence the chain of deeds showing the details of this deraignment of title. From these, it appears that, on November 14th, 1857, T. W. More and A. P. More

acquired from Levi Parsons (a grantee, under mesne conveyances, from Jimeno) an undivided $\frac{17}{24}$ of the grant (Trans. fols. 235–238); that on August 22d, 1859, A. P. More and H. H. More acquired from David Mahony (another grantee, under mesne conveyances, from Jimeno) an undivided $\frac{4}{24}$ of the grant (Trans. fols. 238–241); and that, on January 16th, 1860, A. P. More and H. H. More acquired from S. M. Tibbits (another grantee from Jimeno) the remaining undivided $\frac{3}{24}$ of the grant. These three conveyances vested in T. W., H. H. and A. P. More all the right and title of Jimeno under the grant of the Rancho "Santa Paula y Saticoy." All of them were made subsequently to the presentation of the petition to and the decree of confirmation by the Board of Land Commissioners (See recitals of patent to Rancho "Santa Paula y Saticoy," Trans. fols. 152–153); and the latest of them was made nearly a year prior to the original or Terrell survey of December, 1860 (Trans. fol. 155). This shows the accuracy of the affidavit made by appellant, A. P. More, October 4th, 1862, "that affiant and his brother, T. W. More, purchased said ranch of petitioners, in different parcels, in the years 1857 and 1859, since which time, in his own right and by authority of said petitioners, affiant (appellant, A. P. More) has assumed control of said cause" (Trans. fols. 94–95). Two of the deeds to the Mores describe the grant conveyed as "containing four square leagues, more or less." January 17th, 1862, T. W., H. H. and A. P. More conveyed to G. G. Briggs, for a con-

sideration of $45,000, the entire grant of "Santa Paula y Saticoy," describing it as "containing four square leagues, more or less" (Trans. fols. 243–246; and, February 25th, **1881**, G. G. Briggs and one E. W. Haskell reconveyed to appellant, A. P. More, for a nominal consideration of one dollar, by deed of quitclaim, "all and singular the right, title, interest, and estate of said parties of the first part in and to all the lands and premises embraced within and covered by the grant known as the "Santa Paula y Saticoy," granted to Manuel Jimeno * * * * This conveyance, quitclaim deed, being of all our and each of our rights, titles, interests, and estates, jointly and severally, in and to the whole of the lands and premises *embraced and covered by said grant, saving and excepting the four leagues thereof and therein heretofore surveyed and patented by the United States to John P. Davidson, claimant.*" More than nineteen (19) years after appellant More had conveyed to Briggs the entire grant "containing four square leagues, more or less," he takes back a quitclaim of all the alleged excess of this same grant, "*saving and excepting the four leagues thereof and therein heretofore surveyed and patented by the United States to John P. Davidson, claimant.*" This is the whole of appellants' title; and it is under and by virtue of this quitclaim that they now assail the patent of the United States issued to De Poli, and now held by appellees, and which latter patent of appellees actually bounds upon the Rancho "Santa Paula y Saticoy," as *confirmed, surveyed and patented by the United States.*

In view of this deraignment of title, can appellants contend that they hold by a title *superior to and not derived from or connected with the United States?* Can they now be heard to say that the United States did not conclusively *locate* as well as confirm their grant, in view of their appearance and participation in the proceedings leading up to the patent, as shown above?

III.

Appellants contend that the grant of "Santa Paula y Saticoy" was perfect and complete under the Mexican government, and that there was no necessity of its presentation for confirmation and location to the Board of Land Commissioners, under the Act of March 3d, 1851. They say, in effect, that the presentation actually made, with its years of attendant litigation, was mere surplusage, was a vain and idle ceremony. More than a quarter of a century after the final judgment, they seek to apply to it, as was said in *United States* v. *Hancock*, 30 Fed. Rep., 854, the phrase "*Fabula non judicium est; res agitur in scena, non in foro.*"

There are two conclusive answers to this.

First:—Their grant *never was complete or perfect under the Mexican government.* Their so-called juridical possession was delivered November 17th and 18th, 1847 (Answer of appellants in Trans., fols. 41–42; Expediente of juridical possession, Trans., fols. 193–205). "*The*

authority and jurisdiction of Mexican officers in California are regarded as terminating on the 7th of July, 1846."

United States v. *Yorba*, 1 Wall., 412, 423;
Stearns v. *United States*, 6 Wall., 589;
Hornsby v. *United States*, 10 Wall., 239.

"Colonel Fremont entered California at the head of an American force, in 1846, and the country was entirely subdued and under the military government of the United States, in the beginning of 1847 * * * * The civil and municipal officers who continued to exercise their functions afterwards, did so under the authority of the American government. The Alcalde had no right to survey the land or deliver judicial possession, except by the permission of the American authorities. He could do nothing that would in any degree affect the rights of the United States to the public property; and the United States could not justly claim the forfeiture of the land for a breach of these conditions without showing that there were officers in California, under the military government, who were authorized by a law of Congress to make this survey, and deliver judicial possession to the grantee. *It is certain that no such authority existed after the overthrow of the Mexican Government.*"

Fremont v. *United States*, 17 How., 563.

The principle for which our learned opponents are probably contending is that figurative rule of international law expressed by the phrase, "*Græcia capta ferum victorem cepit.*" But this poetic conception has not yet been recognized by the courts as applicable to the conquest of California. Indeed, the extreme extent even of the poet's dream never portrayed enslaved Greece as imposing her *laws* upon the conqueror; for the sentence concludes, "*et* ARTES *intulit agresti Latio.*"

Measurement and segregation from the public domain were *official* acts and could only be made by the officers of the Mexican government *acting as such.*

Hornsby v. *United States*, 10 Wall., 234;
Biddle Boggs v. *Merced M. Co.*, 14 Cal., 279.

Even after the approval of a Mexican grant by the Departmental Assembly, official delivery of possession, and measurement and segregation from the public domain of the specific quantity granted were essential to complete investiture of title.

United States v. *Castro*, 5 Saw., 628,

(per Field, Circuit Justice), citing

Malarin v. *United States*, 1 Wall., 289.

By their very *conduct*, appellants and their grantors confessed the impotence of this pretended delivery of juridical possession, by the Mexican officials, *more than sixteen months after the conquest and political succession;* for appreciating the invalidity of such pretended acts, by the Mexican officers, they presented their claim to the tribunal appointed by the United States, and requested the new government to establish the validity and the *boundaries* of their grant.

Secondly:—Even if the juridical possession so delivered, and the segregation from the public domain of the United States, so made by the Mexican officials, were

valid acts and created a perfect and complete grant under the Government of Mexico, *yet the appellants, in fact, presented their grant, and voluntarily submitted it to the jurisdiction of the tribunals appointed by the United States. This of itself alone precludes them from now attacking that jurisdiction.*

Cassidy v. *Carr*, 48 Cal., 339;

Boyle v. *Hinds*, 2 Sawyer, 527;

Minturn v. *Brower*, 24 Cal., 664.

IV.

Appellants contend that the stipulation inserted in the patent of De Poli, under which patent appellees claim the premises in controversy, to the effect "that, by virtue of the 15th section of the said Act (Act of March 3d, 1851), neither the confirmation of this claim nor the patent shall affect the interests of *third persons*," applies to them, and that they are "*third persons*," within the meaning of this condition and the 15th section of the Act of 1851. This is wholly unfounded. The stipulation is the ordinary one inserted in all patents issued by the United States upon Mexican grants. It is well settled that the phrase "*third persons*," in the Act of 1851, refers only to those who had *perfect and, therefore, paramount titles under the Mexican government, and who in nowise claimed under or were in privity with the United States.*

Thus, in

Minturn v. *Brower*, 24 Cal., 668–669, it is said:

"Third persons must be regarded to be all persons who were not parties to the proceeding before the Land Commission, or standing in any such relation with those who were parties thereto, as to become affected and bound as privies; and the interests of third persons that remained unaffected by the final confirmation and patent are those subsisting in *perfect titles derived from a source of paramount proprietorship which could be used in resisting successfully any action of the government respecting them.* (*Waterman* v. *Smith*, 13 Cal., 419, 420; *Biddle Boggs* v. *Merced Mining Co.*, 14 Cal., 362; *Leesse* v. *Clark*, 20 Cal., 425.) In the case last cited, Mr. Chief Justice Field said: 'The acquisition of California by the United States did not affect the rights of the inhabitants to their property. The inhabitants retained all such rights, and were entitled by the law of nations to protection in them to the same extent as under the former Government.' (*Teschemacher* v. *Thompson*, 18 Cal., 22.) And in respect to the 'third persons' mentioned in the fifteenth section of the Act of 1851, he said: 'The term third persons refers not to all persons other than the United States and the claimants, but to those holding *independent titles arising previous to the acquisition of the country.* The latter class are not bound by the decree and patent, for they do not hold in subordination to the Government, nor by any title subsequent, but by title arising *anterior to the conquest.*'"

So, too, in

Leese v. *Clark*, 18 Cal., 572,

the court say (per Field, C. J.):

"The defendants do not question the genuineness of the grant to Leese and Vallejo, but its location. They contend that as to such location they are 'third persons' within the meaning of the fifteenth section of the Act of March 3d, 1851, and as a consequence, that the patent is not evidence of such location against them. To determine this question it is necessary to inquire into the nature of the title to the premises, which, it is alleged, they acquired by their subsequent grants; for the 'third persons' within the meaning of the section referred to, who can controvert the location of a grant upon which a patent has issued, are those whose title to the premises patented *not only accrued before the duty of the Government and its rights under the*

treaty attached, but whose title to such premises was at that date such as to enable them to resist successfully any subsequent action of the Government affecting it. (*Teschemacher* v. *Thompson*, 18 *Cal.*, 27; *Waterman* v. *Smith*, 13 Cal., 420.)"

"Persons having an inchoate or imperfect grant of land made by Mexico in California, before its cession to the United States, are not 'third persons,' within the meaning of the Act of 1851. 'Third persons,' mentioned in said Act, are those who have an interest in the land which would enable them to resist successfully any action of the government respecting it."

De Arguello v. *Greer*, 26 Cal., 616.

And see the whole of this case for a definition of an "*inchoate or imperfect* grant."

The same definition has been repeatedly given by this Honorable Court.

See

Beard v. *Federy*, 3 Wall., 493,

and Mexican land grant cases, *passim*.

V.

Appellants contend that appellees are estopped from denying Jimeno's title "by the assent of Anguisola to the juridical survey." This person is described in the expediente of juridical possession as "Don Manuel Anguisola, in charge of San Buenaventura." (Trans. fol. 196). Whatever he did was, like the purported delivery of juridical possession itself, performed on the

17th and 18th days of November, 1847, *more than sixteen months after the conquest and political succession.* But who Anguisola was, what official capacity, if any, he ever had, or what connection there was between him and appellees, or their grantors, does not appear. There is in fact no evidence that there ever was such an individual. But even if Arnaz himself, the original grantee under whom appellees claim, had been present at the purported delivery of juridical possession, neither he nor Jimeno, separately, nor both of them together, could have located or measured the grant. Such location and measurement could only have been *official*, not private acts.

VI.

Appellants contend that the patent to De Poli, under which Appellees claim, was irrelevant and should not have been admitted in evidence. It was relevant for precisely the same reason that the patent to Davidson, et al., under which appellants claim, was relevant. *Each* patent was conclusive as to the *location and boundaries* of the grant upon which it was based. Neither patent could be collaterally attacked by the other patentees, or those in privity with them. No one but the United States could assail either patent, nor the government itself for any matter that was tried and determined. In the absence of direct attack based upon fraud, etc., each patent is binding upon the government, and must be binding upon the respective claim-

ants. Appellants and their grantors did not dispute the south, east, or west boundaries of their survey and patent, so far as those boundaries went. They simply contended before the Land Commission and the District and Circuit Courts, on appeal, that their *northern* boundary should have been extended for several leagues over the sierras and into the grant now covered by the patent of appellees. This question was thoroughly litigated by appellants and their grantors before the Commission and the courts, and they cannot now reopen it. Their patent is conclusive of the *correct location and the boundaries* of the grant to Jimeno.

VII.

Appellants, also, contend that it "appears from the face of the patent (of appellees) that it issued on a sale of Mission lands made by Pico, June 8, 1846, and no authority is shown in Pico to sell, and this court will take notice that said sale was void." This would be a novel form of collateral attack upon a patent. It is a question which does not concern appellants. Their own patent has *conclusively located* their grant, and has determined that they have *no interest in the land covered by our patent*, and our patent can not be assailed, in this action, by them. Our grant was presented to the Board of Land Commissioners, and was confirmed by it, May 15th, 1855. The decree of confirmation was taken, on appeal, to the District Conrt of the United States for the

Southern District of California, and was, on April 1st, 1861, affirmed by it. Thereafter, an appeal from the decision of the District Court was taken to the Supreme Court of the United States, and this Honorable Court affirmed said decision, December, 1868 (Trans. fols. 117–119). The patent, upon this decree of confirmation, thus repeatedly affirmed, issued August 24th, 1874 (Trans. fol. 149). Even were appellants in a position to attack our patent, *in this action*, yet, in view of these judgments and of this patent, the principle "*omnia rite acta*" would apply as well to the *character* of the land included in it as to anything else. In support of these judicial proceedings, abandonment, relinquishment and waiver would, if necessary, be implied on the part of the Mission authorities.

"Indeed, the doctrine as to the regularity and validity of its (the Land Department's) acts, when it has jurisdiction, goes so far that if *in any circumstances under existing law a patenl would be held valid, it will be presumed that such circumstances existed.*"

Smelting Co. v. *Kemp*, 104 U. S., 646.

VIII.

Appellants say: "Respondents are estopped by their *assent* (sic) from denying the division line between themselves and defendants," and "The line established by *agreement* (sic) controls as between the parties or their privies." (Appellants' Brief, pp. 14–15). What "assent" or what "agreement" this refers to we cannot

imagine. We have never heard of any, nor have appellants condescended to point out where they may be discovered. We presume, however, from the context, that this must be another reference to the ubiquitous Don Anguisola, the *deus ex machina*, who, after the conquest still unconquered, pops up, at all critical moments, to help the hero out of the inextricable situations of the plot. For no sooner do the appellants run against thirty years of settled doctrine in this Honorable Court, than the cry is raised "Make way for Don Anguisola." The only thing to be regretted is that his discovery comes so late in the history of Mexican grants. An earlier debut on his part would have saved a great deal of labored argument and expensive litigation.

IX.

Appellants declare: "If there were a contest between the United States and either of these patentees, or *a grantee of the United States, and either of the patentees, the patent would clearly be conclusive.*" (Appellants' Brief, p. 13). This is precisely the contest as we understand it. Appellees are the grantees of a patentee of the United States, and the appellants are, also, grantees of such patentees.

X.

In the *summary*, at the end of their Brief, appellants claim "that respondents have not alleged or shown possession, and that appellants have shown possession since

1840." This is the only allusion in their Brief to the question of *possession*. Nowhere else in their Brief do they pretend that appellees were not in possession, or that they themselves were in possession of the disputed premises, nor is any suggestion made in their Brief of what *effect* they would attach to possession or non-possession on the part of appellees. Nowhere in their answers, nor in the proceedings set forth in the Transcript, do appellants pretend to have been in possession, at the commencement of the action. Nor was the question of *possession* presented to the court below, in any aspect or at all, except as regards the attempt to make out the delivery of *so-called juridical possession in November, 1847*. But, in an action to determine adverse claims to real property in the State of California, *possession* is of no importance, since the adoption of the Codes in 1873.

People v. *Center*, 66 Cal., 551;

See also

Pierce v. *Felter*, 53 Cal., 18;
Stoddart v. *Burge*, 53 Cal., 395.

This State statute, as so construed by the highest State court, will be enforced in the Federal courts.

Holland v. *Challen*, 110 U. S., 15,

affirmed in

Reynolds v. *Crawfordsville Bank*, 112 U. S., 411.

Again affirmed in

Chapman v. *Brewer*, 114 U. S., 171.

No question as to appellees' possession is raised in the record, or was made in the court below. Indeed, it having been stipulated that appellees hold under the patent of the United States issued to De Poli, and that this patent includes the premises in controversy (Trans. fols. 113 and 114), the legal title and ownership, thus conceded, draw to themselves the right of possession, and presume possession in the appellees.

XI.

We have noticed everything in the Brief of Appellants which seems to claim attention, and, without further trespassing upon the time of this Honorable Court, we will simply add the following authorities bearing upon the general propositions discussed.

Even if the petition presented to the Land Commissioners did not embrace all the land included in the patent, yet "The Commissioners, and the Courts which affirmed their decree, had jurisdiction to determine what land was embraced in De Poli's claim, and they must necessarily have determined that question, in determining what land he was entitled to."

Steinbach v. *Perkins*, 58 Cal., 86, 88.

In other words, the patent is conclusive. This was said by the Supreme Court of California in regard to the very grant and patent under which appellees claim.

A final survey is conclusive evidence, in an action of ejectment, against one claiming under the grant, of the *boundaries* of the tract confirmed.

Gallagher v. *Riley*, 49 Cal., 473;
De Arguello v. *Greer*, 26 Cal., 616;
Bernal v. *Lynch*, 36 Cal., 135;
Shartzer v. *Love*, 40 Cal., 93;
Greer v. *Mezes*, 24 How. (U. S.) 268.

"Claimants under a Mexican grant cannot be permitted, while the patent stands, to aver that the claim comprised other or different lands from those mentioned in the patent issued upon such grant."

Carey v. *Brown* (Sup. Ct. Cal.) 8 Pacific Coast L. J. 30.

"A patent issued under the Act of 1851, is, as has often been held by this Court, the final act in proceedings instituted for the confirmation of the claim of the patentee to land which had been granted by the former government, and for the *segregation* of such land from the public lands of the United States; and it is a record which binds both the government and the claimant, and cannot be attacked by either

party, except by direct proceedings instituted for that purpose (*Leese* v. *Clark*, 18 Cal., 535). While it stands, the claimant or those deriving title through him, will not be permitted to aver that the claim comprised other or different lands from those mentioned in the patent."

Chipley v. *Farris*, 45 Cal., 538–9.

When a survey has been made and approved as required by law, the courts will not go behind it to ascertain what are the boundaries of the grant.

San Diego v. *Allison*, 46 Cal., 162.

Delivery of juridical possession outside the boundaries of the grant was of no avail, and the possession thus given was unauthorized and void, and conferred no title except as to the land within the boundaries of the grant.

Reed v. *Ybarra*, 50 Cal., 465.

It is respectfully submitted that the decree of the United States Circuit Court is clearly right, and should be affirmed.

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